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Satellite Policy Branch
International Bureau

DirectCom Networks, Inc.

For Authorization to Construct, Launch
and Operate a System of Two Ka-Band
Satellites in the Fixed Satellite Service

Reply of DirectCom Networks, Inc.

DirectCom Networks, Inc. ("DirectCom"), by its attorneys, hereby replies to the opposition ("Opposition") of CAI Data Systems, Inc. ("CAI")¹ to DirectCom's Petition for Reconsideration ("Petition") of the matters referenced above.² The Opposition was inexcusably late-filed and should be dismissed without consideration. In the event the Opposition is considered at all, moreover, it should be promptly rejected.

CAI's opposition is procedurally defective. Oppositions to DirectCom's Petition, which was served on CAI, were due by September 19, 2001.³ However, CAI's Opposition was filed almost two weeks later, on October 1, 2001, without justification or a request for the Commission to accept such an unauthorized pleading. For this reason alone, the Commission should return CAI's Opposition.

¹ CAI Data Systems, Inc. Opposition to Petition (filed Oct. 1, 2001) ("*CAI's Opposition*").

² DirectCom is filing on this same date a Motion for Leave to file this Reply.

³ 47 C.F.R. § 1.106(g).

Even if the opposition is considered on the merits, moreover, it fails to demonstrate how DirectCom's request to secure a full-CONUS slot with ITU date priority at some time in the future is contrary to law or public policy. Most critically, CAI does not challenge the essential predicate of DirectCom's Petition – that is, it did not receive any license for a date-priority, full-CONUS slot contrary to FCC policy. Indeed, no party to this proceeding has contested this fact.⁴

CAI's principle concern is that it could allegedly be prejudiced in the event DirectCom asserts an interest in 87° W.L. CAI claims that it had previously expressed an interest in that slot "should it become available, as that location best suits its need to serve the rural markets of the northeast United States."⁵ The alleged prejudice to CAI is purely speculative. In any event, DirectCom has no interest in the 87° W.L. slot. Accordingly, DirectCom will not exercise any authority it may receive upon grant of its Petition to request reassignment to 87° W.L.⁶

Rather than oppose DirectCom's Petition directly on the merits, CAI essentially seeks – a month too late – reconsideration of its own Ka-band license by attempting to co-opt for itself the relief sought by DirectCom. Thus, CAI repeatedly claims that it is somehow "more eligible" for reconsideration than DirectCom. Even if such assertions of greater entitlement were relevant to this proceeding – which they clearly are not – they are without support.

First, CAI complains that its application sought assignment of only a single slot and was pending for more time than DirectCom's application.⁷ Of course, both DirectCom's and CAI's

⁴ See also Reply of DirectCom to Pegasus Development Corp.'s Opposition to Petition for Partial Reconsideration (Oct. 1, 2001).

⁵ *CAI's Opposition* at 2. CAI couches its interest in the 87° W.L. slot as a desire to serve the "rural" northeast, notwithstanding the fact that this is the most densely populated area of the country.

⁶ See Declaration of Toby DeWeese, attached.

⁷ *CAI's Opposition* at 2-3.

applications were considered and simultaneously granted as part of the same processing round. In addition, it is undisputed that, regardless of the number of slots requested by DirectCom, it did not receive *one* with full-CONUS capability and ITU-date priority as mandated by FCC licensing policy.⁸

Second, CAI claims that its business plan requires a “strong footprint” over the eastern part of the United States, where it intends initially to target the rural market.⁹ CAI offers no explanation, however, as to how its desire to serve the east coast or rural areas would be adversely affected by grant of DirectCom’s Petition or would make CAI a more deserving (if belated) candidate for reconsideration.

Finally, CAI’s sense of greater entitlement is premised upon the mistaken notion that CAI is somehow more of a “new entrant” than DirectCom. CAI admits that “DirectCom is, indeed, a new entrant in the Ka-band satellite market,” but then argues that DirectCom is “part of a much large [sic] media empire,” whereas CAI allegedly “is truly a new entrant.”¹⁰ To the contrary, fifty percent of CAI is controlled by *MCI Worldcom*.¹¹ In any event, new entrant status was accorded to all entities –like DirectCom – that controlled no other Ka-band licenses. CAI offers no reason for the Commission to depart from this settled principle.

⁸ CAI’s assertion that its assigned slot at 125° W.L. “is no more a full-CONUS orbital location than those assigned to DirectCom” is neither supported in fact nor relevant to *Directcom’s* request for relief.

⁹ *Id.*

¹⁰ *Id.*

¹¹ CAI amended its application to report MCI’s acquisition of control of 50% of the applicant and, to the extent necessary, sought a waiver of the “cut off” rule for the change in ownership. In justifying the waiver, CAI argued that it would “now have access to greater resources...” Amendment, File No. SAT-AMD-19990930-00093 (Sept. 30, 1999) at Exhibit A, p.1. *See also* CAI Wireless Systems, Inc., Form 10 Q at 8 (Note 1) and 10 (Note 2) (August 16, 1999) <available at www.sec.gov/Archives/edgar/data/914749/0000914749-99-000022> (visited Oct. 16, 2001) (“*CAI 10-Q*”).

In short, the Commission should promptly reject CAI's belated, self-serving and unsupported Opposition, and grant DirectCom's Petition for Reconsideration.

Respectfully submitted,

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