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August 23, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: Written Ex Parte Presentation in File Nos. SAT-AMD-19971219-00199, SAT-AMD-19971222-00204, SAT-AMD-19971222-00216, SAT-AMD-19971222-00229, SAT-AMD-19980123-00009, SAT-LOA-19951109-00185, SAT-LOA-19951109-00186, SAT-LOA-19970702-00057, SAT-LOA-19971222-00201, SAT-LOA-19971222-0205, SAT-LOA-19971222-00206, SAT-LOA-19971222-00207, SAT-LOA-19971222-00208, SAT-LOA-19971222-00209, SAT-LOA-19971222-00211, SAT-LOA-19971222-00212, SAT-LOA-19971222-00213, SAT-LOA-19971222-00214, SAT-LOA-19971222-00215, SAT-LOA-19971222-00223, SAT-LOA-19971222-00224, SAT-LOA-19971222-00225, SAT-LOA-19971222-00226, SAT-LOA-19971222-00227, SAT-LOA-19971222-00228, SAT-LOA-19980312-00018, SAT-LOA-19980312-00019, SAT-LOA-19980403-00025, SAT-LOA-19980403-00026, SAT-LOA-19980403-00027, SAT-LOA-19980403-00028, SAT-LOA-1998-0403-00029, 94- through 98-SAT/P/LA-97, SAT-LOI-19971222-0217, and SAT-LOI-19971222-0218

Dear Ms. Salas:

Lockheed Martin Corporation ("Lockheed Martin") hereby submits its comments on the proposed orbital assignment plans submitted to the Commission in connection with the above-referenced applications in the second Ka-band GSO FSS processing round.

On August 11, 2000, seven parties comprising the majority of second-round Ka-band GSO FSS applicants, submitted a proposed orbital assignment plan to the Commission.¹ In light of the fact that five of the seven companies are not U.S. first-round Ka-band licensees, this plan represents an aggressive effort to maximize the number of new entrants into the U.S. broadband satellite market. This comprehensive orbital assignment plan was developed in a strong spirit of compromise and strives to achieve a reasonable accommodation of the needs of *all* second-round applicants. In

¹ See Letter to Magalie Roman Salas, FCC Secretary, from CAI Data Systems, Inc., Pacific Century Group, Inc., TRW, Inc., Celsat America, Inc., Hughes Communications, Inc., Lockheed Martin Corporation and KaStarcom World Satellite, LLC (Aug. 11, 2000) (the "Majority Plan").

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addition, three second-round applicants submitted an alternative orbital assignment plan for consideration.² Finally, PanAmSat Corporation submitted separately its “preferred” second-round orbital assignments.³

There are significant similarities among the proposed orbital assignment plans submitted by the applicants. Where the plans assign identical orbit locations to individual applicants or an applicant’s preferred location is available, such assignments should be adopted by the Commission. To the extent the plans differ, however, Lockheed Martin submits that strong public interest factors support adoption of the Majority Plan.

As a threshold matter, Lockheed Martin believes that some second-round Ka-band orbital assignments cannot be made simply by reference to the original applications filed with the Commission. Although some parties require the orbit locations requested in their initial applications, the business plans and operational needs of others have changed since the applications were filed more than 2 ½ years ago. Thus, to the extent possible, the Majority Plan accommodates applicants in locations that reflect their current business plans.

The conflicting requests for CONUS locations contained in the Majority and Alternative Plans are caused primarily by the difficulties associated with accommodating the requests of Pegasus and DirectCom for specific CONUS orbit locations. In their second-round applications, both Pegasus and DirectCom applied for the 93°W and 103°W orbit locations. However, these orbital slots were not available in the second Ka-band processing because they had been assigned to first-round Ka-band licensees.⁴ Pegasus and DirectCom argue that they now should receive preferential treatment because their requested slots were made “unavailable due to an action by the Commission (i.e., the licensing of the 93W and 103W orbital locations on the eve of the second-round filing deadline).”⁵ However, this argument is factually inaccurate.

Although Pegasus and DirectCom apparently claim to have had only three days notice of prior FCC assignment of 93°W and 103°W,⁶ the Commission actually gave second-round applicants more than *three months* notice that first-round licensees had requested reassignment to those slots. On September 10, 1997, more than three months

² See Letter to Magalie Roman Salas, FCC Secretary, from CAI Data Systems, Inc., DirectCom Networks, Inc. and Pegasus Development Corporation (Aug. 11, 2000) (the “Alternative Plan”). CAI Data Systems, Inc. (“CAI”) supports both the Majority Plan and the Alternative Plan and signed both submissions.

³ See Letter to Magalie Roman Salas, FCC Secretary, from PanAmSat Corporation (Aug. 11, 2000).

⁴ See Assignment of Orbital Locations to Space Stations in the Ka-band, *Order*, DA-97-2654 (rel. Dec. 19, 1997).

⁵ See Letter to Magalie Roman Salas, FCC Secretary, from CAI Data Systems, Inc., DirectCom Networks, Inc. and Pegasus Development Corporation (Aug. 11, 2000) at 2.

⁶ The FCC’s revised first-round orbital assignment plan was released on December 19, 1997, and second-round applications were due on December 22, 1997.

before the second-round Ka-band application cut-off date, the Commission requested comment on proposed first-round reassignments to 93°W and 103°W.⁷ In this context, there was no question that the 93°W and 103°W would be assigned to a first-round licensee and thus unavailable in the second Ka-band processing round.

For reasons known only to the two parties, neither Pegasus nor DirectCom chose to participate in the process and did not submit any comments in response to the FCC's public notice.⁸ Instead, they chose to ignore the public notice and file three months later for unavailable slots, rather than for orbit locations that would be available in the second round. Now, three years later, Pegasus and DirectCom seek to bootstrap their initial requests for slots known to be unavailable into preferred access to CONUS orbit locations at the expense of other parties.

For example, Pegasus seeks both the 107°W and 95°W orbital slots. Pegasus suggests that its locations are "constrained in the domestic arc by its existing DBS business operating from DirecTV's 101W satellite," but Pegasus's application reveals no relationship whatsoever between its Ku-band BSS operations and its proposed Ka-band FSS system.⁹ Moreover, CAI has agreed to accept the 107°W orbit location as part of the Majority Plan. Because a negotiated compromise with Pegasus could not be reached prior to the filing, the Majority Plan accommodates Pegasus at available CONUS orbit locations closest to its original requests: 125°W and 129°W.¹⁰

For its part, despite the fact that the Majority Plan assigns DirectCom both 117°W and 119°W, DirectCom has rejected the latter assignment and now inexplicably creates a conflict for itself with KaStarcom over 500 megahertz of spectrum at 109.2°W. The assignment of two adjacent, full-frequency CONUS orbit locations will result in substantial operational benefits and provides a reasonable accommodation given DirectCom's initial request for two unavailable orbit locations.

Finally, PanAmSat states that it has "relinquished" its claim to 169°E and instead seeks FCC authorization to operate from 125°W, a location previously assigned to PanAmSat but cancelled by the FCC for its failure to meet system implementation

⁷ See Satellite Policy Branch Information: Reassignments requested in Ka-Band Processing Group, *Public Notice*, Report No. SPB-102 (rel. Sept 10, 1997).

⁸ During this period, only CAI filed a letter objecting to the first-round reassignment requests. See Letter to Tom Tycz from James U. Troup and Brian D. Robinson (Nov. 4, 1997). However, CAI now has agreed to accept an alternative orbit location available in the second round.

⁹ See Letter to Magalie Roman Salas, FCC Secretary, from CAI Data Systems, Inc., DirectCom Networks, Inc. and Pegasus Development Corporation (Aug. 11, 2000) at 2; see also Application of Pegasus Development Corporation, File No. SAT-LOA-19980403-00025 through 00029 (filed Dec. 22, 1997). In contrast, Lockheed Martin's 2nd round request for the 79°W orbit location is clearly connected to its pending V-band system application.

¹⁰ In addition, the Majority Plan assigns Pegasus the 62°W orbit location, which provides coverage of South America.

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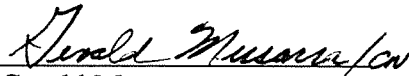
milestones.¹¹ Lockheed Martin opposes PanAmSat's request. Apart from whether PanAmSat should be permitted effectively to reinstate a first-round license cancelled by the Commission, it is Lockheed Martin's view that these newly available CONUS slots should be used to resolve existing mutual exclusivity – a condition not applicable to the orbital slots filed for by PanAmSat in the second round.

In closing, Lockheed Martin urges the Commission to act in a timely manner now that the applicants have formally submitted their views. Should the Commission have any questions, please contact the undersigned.

In accordance with 1.1206 of the Commission's rules, two copies of this filing are being submitted on this date for association with each of the above-referenced file numbers.

Respectfully submitted,

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¹¹ See Letter to Magalie Roman Salas, FCC Secretary, from Joseph A. Godles (Aug. 11, 2000) at 2.