



Via INTERNATIONAL BUREAU FILING SYSTEM

June 3, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Dear Ms. Dortch:

**Re: Request for Clarification and/or Reconsideration of Stamp Grant
Hughes Network Systems, LLC
File No. SAT-LOI-20091110-00119, Call Sign S2753**

O3b Limited (“O3b”) respectfully requests clarification and/or reconsideration of the Stamp Grant of the Letter of Intent for the SPACEWAY 4 satellite filed by Hughes Network Systems, LLC (“Hughes”).¹ O3b Limited is a United Kingdom-based company preparing to launch a non-geostationary Ka-band satellite system that will use some of same frequencies as SPACEWAY 4.

Specifically, O3b requests that the International Bureau (“Bureau”) clarify that Hughes’s authority to operate SPACEWAY 4 using the 28.6-29.1 GHz frequency band is on a secondary basis with respect to non-geostationary satellite orbit (“NGSO”) fixed-satellite service (“FSS”) operations. As the Bureau is aware, the 28.6-29.1 GHz frequency band is allocated to the NGSO FSS on a primary basis, and to the geostationary satellite orbit (“GSO”) FSS on a secondary basis.² As a result, Hughes’s use of those frequencies on the geostationary SPACEWAY 4 satellite must be on a non-protected, non-harmful interference basis relative to NGSO FSS systems in the same band.³ Indeed, Hughes itself requested authority to use this band “on a secondary, non-harmful interference basis” only.⁴

¹ See Stamp Grant, File No. SAT-LOI-20091110-00119, Call Sign S2753 (granted May 5, 2010; corrected Jun. 1, 2010) (“SPACEWAY 4 Grant”); Public Notice, SAT-00687, *Policy Branch Information: Actions Taken*, DA-10-785 (May 7, 2010).

² See *Rulemaking to Amend Parts 1.2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, FCC 96-311, First Report and Order and Fourth Notice of Proposed Rulemaking, 11 FCC Rcd 19005, at 19024, 19030-31 (1996).

³ See 47 C.F.R. § 2.104(d).

⁴ Letter of Intent at 12, File No. SAT-LOI-20091110-00119 (filed Nov. 10, 2009).

In previous grants of authority to GSO FSS systems to use the primary NGSO FSS frequencies, the International Bureau has expressly reminded the GSO FSS licensee that operations in those frequencies are on a secondary basis only.⁵ Oddly, however, the *SPACEWAY 4 Grant* contains no language regarding secondary operations in the 28.6-29.1 GHz frequency band, even though it contains protective language for the other non-primary GSO FSS bands in which *SPACEWAY 4* will be operating.⁶ In this regard, the omission of language regarding the secondary status of Hughes's use of the 28.6-29.1 GHz band appears to be an oversight.

On this basis, O3b respectfully requests that the International Bureau clarify and/or reconsider the *SPACEWAY 4 Grant* by:

- (1) inserting a reminder in the Preamble that use of the 28.6-29.1 GHz band is on a secondary basis;⁷ and
- (2) adding the following express condition:

Hughes is authorized to use the 28.6-29.1 GHz frequency band, which is designated for GSO FSS use on a secondary basis with respect to primary NGSO FSS operations. 47 C.F.R. § 2.104(d). As a secondary user, Hughes's operations cannot cause harmful interference to or claim protection from harmful interference from stations on a primary service. Hughes shall immediately cease operations upon notification of such harmful interference resulting from its operations.⁸

As explained above, clarifying the *SPACEWAY 4 Grant* in the requested manner would be consistent with the Commission's Ka-band Band Plan, and is indeed compelled by it. Such a clarification would also be consistent with Hughes's request to operate in the 28.6-29.1 GHz band on a secondary basis only. Finally, the requested clarification would best serve the public interest by removing any uncertainty as to the basis upon

⁵ See *ViaSat, Inc.*, Stamp Grant at Preamble (use of 28.6-29.1 GHz on secondary basis), condition 5 (express condition regarding use of 28.6-29.1 GHz on a secondary basis), File No. SAT-MOD-20091127-00129 (granted Apr. 20, 2010) ("*ViaSat-77.3*"); *ViaSat, Inc.* Stamp Grant at Preamble (use of 28.6-29.1 GHz on secondary basis), File No. SAT-LOI-20080107-00006, et al. (granted Aug. 18, 2009) ("*ViaSat-IOM*").

⁶ See *SPACEWAY 4 Grant* at Preamble, condition 5 (authorizing the use of the 18.8-19.3 GHz band on a non-interference basis relative to primary NGSO FSS operations in that band).

⁷ See *ViaSat-77.3* and *ViaSat-IOM*.

⁸ See *ViaSat-IOM* at condition 5.

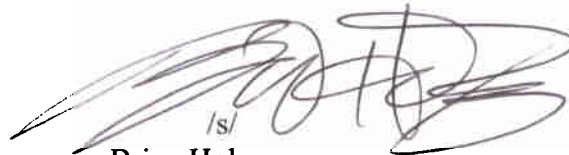
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which Hughes is authorized to operate in the 28.6-29.1 GHz band for all interested parties.⁹

Please contact the undersigned if you have any questions regarding this letter.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Brian Holz', with a small 'i/s/' mark below it.

Brian Holz
Executive Vice President and Chief
Technology Officer
O3b Limited
Tel: (720) 961-4454

cc: (by electronic mail)

Stephen Baruch, Lerman Senter PLLC, sbaruch@lermansenter.com
Steven Doiron, Hughes Network Systems, Inc., steven.doiron@hughes.com
Robert Nelson, International Bureau, robert.nelson@fcc.gov
Stephen Duall, International Bureau, stephen.duall@fcc.gov

⁹ See *Star One S.A.*, DA 08-1645, Order on Reconsideration, 23 FCC Rcd 10896, at ¶ 5 (2008). As noted above, O3b is preparing to launch a next-generation NGSO FSS satellite network that uses the Ka-band frequencies, including the 28.6-29.1 GHz band allocated for primary NGSO FSS operations. See <http://www.o3bnetworks.com>. O3b is therefore adversely affected by any uncertainty as to the basis upon which Hughes has been granted authority to operate SPACEWAY 4 in the 28.6-29.1 GHz frequency band. O3b did not intervene at an earlier stage of this proceeding because it reasonably expected the International Bureau to process the SPACEWAY 4 Letter of Intent consistent with precedent and Hughes's statement that it would operate the 28.6-29.1 GHz band "on a secondary, non-harmful interference basis." Letter of Intent at 12.