

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

In the Matter of	)	
	)	
VIASAT, INC.	)	File No. SAT-LOI-20160208-00015
	)	
Letter of Intent for Authority to	)	
Access the U.S. Market Using a	)	
Non- Licensed Ka-Band	)	
Geostationary Satellite at the	)	
Nominal 109° W.L. Orbital Location	)	

**PETITION FOR IMPOSITION OF CONDITIONS**

In the above-referenced Letter of Intent (“LOI”) application, ViaSat, Inc. (“ViaSat”) requests authority to serve the U.S. market via a Ka-band satellite that Viasat would operate at 109° W.L.<sup>1</sup> Telesat Canada (“Telesat”) hereby requests that the Commission, if it grants ViaSat’s application, require that ViaSat cease providing service to the United States from 109° W.L. once a Ka-band satellite network that has higher ITU priority is placed into operation at 109.2° W.L. Telesat demonstrates below that imposing this condition would be in keeping with the regulatory framework the Commission has established for providing U.S. market access to non-U.S. licensed satellites.

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<sup>1</sup> References in this petition to 109° W.L. are to the nominal orbital location of 109° W.L. The ViaSat Schedule S submitted with its LOI application refers to proposed operation at 109.1° W.L.

In its *Space Station Licensing Reform Order*,<sup>2</sup> the Commission stated that when it is presented with requests for U.S. market access and there are operators of non-U.S. licensed satellites licensed by different administrations, it will take into account the impact of the ITU coordination process.<sup>3</sup> If U.S. market access is sought in an FCC application for a non-U.S. licensed satellite, and if the non-U.S. licensed satellite will operate under an ITU satellite network that has lower ITU priority than the ITU satellite network associated with another non-U.S. licensed satellite, the applicant either must show that it has coordinated with the higher priority satellite network or must accept a condition under which “the lower priority satellite would be required to cease service to the U.S. market immediately upon launch and operation of the higher priority satellite.”<sup>4</sup>

The elements of this policy apply to ViaSat’s LOI application. ViaSat has requested U.S. market access for its satellite at 109° W.L., and there will be satellites at that orbital location (*i.e.*, Viasat’s and Telesat’s) authorized by different administrations. ViaSat’s satellite will be launched and operated at 109° W.L. under the authority of the United Kingdom; a Telesat satellite will be launched and operated at 109° W.L. under the authority of Canada.<sup>5</sup> Viasat’s market access request includes the 29.5 – 30.0 GHz

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<sup>2</sup> *In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies; Mitigation of Orbital Debris, First Report and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54*, 18 FCC Rcd 10760, 10871-72, ¶ 296 (2003) (“*Space Station Licensing Reform Order*”).

<sup>3</sup> *Space Station Licensing Reform Order*, at ¶ 295-296.

<sup>4</sup> *Space Station Licensing Reform Order*, at ¶ 296.

<sup>5</sup> 109° W.L. is the nominal orbital location. Viasat’s satellite will be located at 109.1° W.L. Telesat’s satellite will be located at 109.2° W.L.

(Earth-to-space) and 19.7 – 20.2 GHz (space-to-Earth) bands; Telesat has international frequency rights in these bands under the CANSAT-49 ITU satellite network.

Telesat’s international frequency rights in the 29.5 – 30.0 GHz and 19.7 – 20.2 GHz bands at 109° W.L. take precedence over Viasat’s. The United Kingdom satellite network under which ViaSat’s satellite will operate in the 29.5 – 30.0 GHz and 19.7 – 20.2 GHz bands at 109° W.L. has lower ITU priority than the CANSAT-49 ITU satellite network under which Telesat will operate, which has been brought into use and notified. ViaSat, moreover, has not successfully coordinated its lower priority 109° W.L. satellite network with Telesat’s higher priority satellite network. Under the policy the Commission adopted in the *Space Station Licensing Reform Order*, therefore, there should be a condition under which ViaSat is “required to cease service to the U.S. market [from 109° W.L.] immediately upon launch and operation of” a satellite that will operate under Telesat’s higher priority ITU satellite network.<sup>6</sup>

There is ample Commission precedent for adopting this condition. Similar conditions were adopted by the International Bureau in cases involving Loral Spacecom Corp.<sup>7</sup> and Star One.<sup>8</sup> Cases in which the Bureau declined to impose such a condition are distinguishable either because both non-U.S. systems were authorized by the same foreign administration<sup>9</sup> or there was no indication that either administration had

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<sup>6</sup> *Space Station Licensing Reform Order*, at ¶ 296.

<sup>7</sup> *Loral Spacecom Corp., Petition for Declaratory Ruling to Add Telstar 13 to the Permitted Space Station List, Order*, 18 FCC Rcd 16374, ¶¶ 16-17, 31 (Int’l. Bur. 2003).

<sup>8</sup> *Star One S.A., Order on Reconsideration*, DA 08-1645, ¶ 6. (Int’l. Bur. 2008).

<sup>9</sup> *Inmarsat Hawaii Inc., Letter of Intent*, File No. SAT-LOI-20140326-00034, Call Sign S2923, note 3 (Int’l Bur. 2014).

successfully completed coordination of its network.<sup>10</sup> Here, by way of contrast, a satellite network authorized by a different foreign administration has been brought into use 0.1 degrees from the proposed network and has been notified.

Accordingly, and for the reasons stated herein, if the Commission grants ViaSat's LOI application, it should require that ViaSat cease providing service once Telesat's Ka-band satellite is placed into operation at 109.2° W.L.

Respectfully submitted,

TELESAT CANADA

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<sup>10</sup> *Hughes Network Systems, LLC, Letter of Intent Seeking Access to the United States Market, Declaratory Ruling*, 26 FCC Rcd 8521, ¶ 26 (Int'l Bur. 2011).

## CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2016, a copy of the foregoing Petition for Imposition of Conditions was sent by first-class, United States mail to the following:

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