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LAW OFFICES
GOLDBERG & SPECTOR
1229 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036

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Federal Communications Commission
Office of the Secretary

(202) 429-4900

TELECOPIER:

(202) 429-4912

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HENRY GOLDBERG
PHILLIP L. SPECTOR
JEFFREY H. OLSON
JOSEPH A. GODLES
JONATHAN L. WIENER
HENRIETTA WRIGHT
THOMAS G. GHERARDI, P.C.
COUNSEL

October 31, 1990

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Satellite Radio Bra

BY HAND

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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Re: National Exchange Satellite, Inc.

Dear Madam Secretary:

National Exchange Satellite, Inc. ("NEXSAT") holds construction permits for two in-orbit domestic fixed-satellites, SpotNet-1 and SpotNet-2, and a ground-spare, SpotNet-3. See File Nos. 6022/23/24-DSS-P/LA-87. NEXSAT hereby requests a six-month period of time within which to submit to the Commission a copy of the contracts and related documents for the construction of the SpotNet satellites. Grant of this request would result in contract deadlines for SpotNet-1, SpotNet-2 and SpotNet-3 of respectively, April 30, 1991, March 31, 1992, and September 30, 1992. For the reasons discussed below, grant of this request will serve the public interest.

I. BACKGROUND

As the Commission is aware, NEXSAT (and its corporate predecessor, National Exchange, Inc.) initiated its efforts to establish a new domestic communications satellite system in 1983. See National Exchange, Inc., 103 F.C.C.2d 836 (1985), reconsideration denied, 1 FCC Rcd 682 (1986). Finally, in December of 1988, after five years of prosecuting applications in two processing rounds, NEXSAT received construction permits for the SpotNet system. See National Exchange Satellite, Inc., 3 FCC Rcd. 6992 (1988). However, it was not until over a year later, in January of 1990, that the SpotNet orbital assignments were

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finalized at 93° W.L. and 127° W.L. See Assignment of Orbital Locations to Space Stations in the Domestic Fixed-Satellite Service, 5 FCC Rcd 179 (1990) ("Reassignment Order").

Throughout this process, NEXSAT has pursued a spacecraft design that would significantly advance the state of the art. See, e.g., National Exchange, Inc., supra, 1 FCC Rcd. at 689 n.35. Indeed, at one point, NEXSAT's high-powered spot beam proposal for its Ku-band services appeared sufficiently unprecedented that the Commission assigned SpotNet-1 and 2 to the "high-power" video arc, orbital locations incompatible with the spacecrafts' true capabilities. This misassignment subsequently was remedied, but only after the expenditure of a great deal of time and effort by NEXSAT to demonstrate to the operators of adjacent satellites and the Commission that the SpotNet system could be operated essentially as planned without causing objectionable interference. See Reassignment Order, 5 FCC Rcd at 180-81. During this period of uncertainty regarding its orbital assignments, no meaningful progress could be made on finalizing the SpotNet spacecraft design; the issues then confronting NEXSAT could have forced a substantial redesign of the satellites, including such elements as, inter alia, power levels, antenna configurations, whether to retain the hybrid design, and the number of transponders.

Since the resolution of the orbital assignment question earlier this year, NEXSAT has renewed discussions with manufacturers. The SpotNet satellites are intended to achieve a major advance in communications capability when compared to conventional commercial satellite, and yet must be produced and launched at a reasonable cost. Because of the unique nature of the SpotNet payload, NEXSAT's discussions with potential manufacturers have been far more detailed and complex than is common when contracting for a more conventional spacecraft.

However, notwithstanding these complexities, NEXSAT is confident that it can reach an agreement with a manufacturer for a viable design and enter into a construction contract in the near future; indeed, until recently, NEXSAT believed that the process could be concluded within the existing time frame. Although this process has consumed more time and effort than NEXSAT originally anticipated, as demonstrated below, the public interest will be served by affording NEXSAT the additional time requested herein.

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II. THE PUBLIC INTEREST WOULD BE SERVED BY
AFFORDING NEXSAT ADDITIONAL TIME TO OVER-
COME THE OBSTACLES PRESENTLY BEFORE IT.

As described above, NEXSAT is continuing in its effort to establish a new satellite system that will advance the state of the art in satellite communications. The Commission has long held that technological advances in this area primarily should be driven by the marketplace and not by administrative fiat. Cf. National Exchange, Inc., supra, 1 FCC Rcd 689 at n.35. NEXSAT seeks the additional time requested herein to resolve the issues that remain as an obstacle to finalizing the spacecraft design and moving ahead with construction. As is demonstrated below, the public interest would be served by a grant of NEXSAT's request.

During the past decade, the domestic satellite industry has undergone a transformation from an open entry, "open skies" industry to an oligopoly in which little, if any, incentive exists to introduce innovative services. In 1985, the domestic satellite constellation included such names as Western Union, SBS, RCA Americom, AmSat, Comsat, Hughes, and GTE, in addition to AT&T. After a series of mergers and acquisitions, the most recent being GTE's pending acquisition of Contel (including AmSat's successor ASC), in the aggregate AT&T, Hughes, GE Americom and GTE control essentially 100% of C-band and Ku-band orbital positions. Of those four companies, two -- AT&T and GTE -- are, of course, significant forces in the terrestrial telecommunications industry. The other two companies are affiliated with spacecraft manufacturers and control between them the vast majority of orbital locations and assignments. In short, in the space of five years, the number of meaningful competitors in the market has been reduced sharply and there is no competitor who is unaffiliated with a dominant supplier of either spacecraft or telecommunications services.

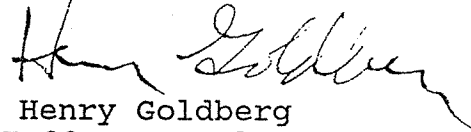
This market structure is not the sort that is likely to encourage advances in the state of the art of satellite communications. Nonetheless, NEXSAT -- the only new entrant remaining from the 1987 applications processing round -- is attempting to do just that, but it needs additional time within which to resolve the difficult technological issues inherent in this endeavor. The Commission can grant this relief without concern for "warehousing." See MCI Communications Corp., 1 FCC Rcd 233 (1987). NEXSAT remains fully committed to its longstanding plans to enter the domestic satellite marketplace.

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III. CONCLUSION

As the result of the foregoing, NEXSAT requests a six-month extension of time within which to file construction contracts for SpotNet-1, -2 and -3 until, respectively, April 30, 1991, March 31, 1992, and September 30, 1992. If there are any questions regarding this matter, please contact the undersigned.

Respectfully submitted,



Henry Goldberg
Jeffrey H. Olson
Attorneys for
National Exchange Satellite, Inc.

cc: James Keegan, Esq.
Cecily Holiday, Esq.