



Federal Communications Commission
Washington, DC 20554

International Bureau

December 18, 2002

Mr. David K. Moskowitz
Senior Vice President and General Counsel
EchoStar Satellite Corporation
5701 South Santa Fe
Littleton, CO 80120

RE: EchoStar Satellite Corp., Application for Minor Modification of Authorization to Construct, Launch, and Operate a Ka-Band Satellite in the Fixed-Satellite Service (File No. SAT-MOD-20010608-00055)

Dear Mr. Moskowitz:

EchoStar Satellite Corporation ("EchoStar") has filed the above-captioned application to modify the technical characteristics of its Ka-band system by implementing a hybrid Ku-/Ka-band satellite, EchoStar 9, at the 121° W.L. orbital location ("Modification Application"). We are unable, however, to act on the Modification Application as it is currently filed and request that you file an amended application that addresses the following issues:

- The Modification Application proposes to use spectrum resources for which EchoStar has no authority to operate. The frequency/polarization plan of the Modification Application calls for Channels C and D of the EchoStar 9 payload to be centered at 29.4 and 28.5 GHz (Earth-to-space) and 18.4 and 18.7 GHz (space-to-Earth).¹ These frequencies are outside EchoStar's authorized Ka-band frequencies at 29.5-30.0 GHz (Earth-to-space) and 19.7-20.2 GHz (space-to-Earth).² At the time of filing the Modification Application, EchoStar had a request pending to use an additional 500 megahertz of Ka-band spectrum (28.35-28.6 GHz and 29.25-29.5 GHz) for uplink operations and an additional 500 megahertz of Ka-band spectrum (18.3-18.8 GHz) for downlink operations. That request was subsequently denied, and the requested additional spectrum resources are no-longer available for use by EchoStar.³ The amended application should take this fact into account, and should modify the channel plan for the EchoStar 9 satellite accordingly.

¹ See Modification Application at Annex 1, Table 1-2.

² See EchoStar Satellite Corp., Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service, *Order and Authorization*, DA 97-969, 13 FCC Rcd 5664 (Int'l Bur. 1997).

³ See EchoStar Satellite Corp., Application for Modification of Ka-band Authorization, *Memorandum Opinion and Order*, DA 01-1684, 16 FCC Rcd 14300 (Int'l Bur. 2001), *pet. for recon. denied*, 17 FCC Rcd 8305.

- The Modification Application indicates that the EchoStar 9 satellite has been constructed with the capability of transmitting and receiving frequencies for which EchoStar does not have authority to operate (see above). If EchoStar's intends to construct transponders capable of operating on unauthorized frequencies, it is required, under the Commission's rules, to submit a letter stating that it is constructing these transponders at its own risk.⁴ In addition, EchoStar's amended application should clearly state that EchoStar will not operate these transponders on frequencies for which it lacks authorization.

- EchoStar appears to abandon the use of spectrum resources that it has previously received authority to utilize. The Modification Application calls for 200 MHz wide uplink channels centered at 29.9 GHz (Channel A) and 29.6 GHz (Channel B). Accordingly, these channels will occupy the 29.8-30.0 GHz and 29.5-29.7 GHz bands. The Modification Application does not appear to contemplate the use of the 29.7-29.8 GHz frequency band, despite the fact that EchoStar is authorized to operate uplinks throughout the 29.5-30 GHz frequency band. Likewise, the Modification Application calls for 200 MHz wide downlink channel centered at 20.1 GHz (Channel A) and 19.8 GHz (Channel B). Under this channel plan, EchoStar would not utilize authorized downlink spectrum at 19.9-20.0 GHz. EchoStar should make clear in its amended application whether it intends to utilize all the Ka-band frequencies for which it holds an authorization.

- The Modification Application states that EchoStar's Ka-band payload will share the EchoStar spacecraft bus with a C-band payload that will be licensed to another entity.⁵ ITU Regulations prohibit any private entity from operating a transmitting space station without a license from the government of country to which the space station is subject.⁶ We ask you to confirm that the operator of the C-band payload has been, or will be, licensed by the appropriate administering country prior to the launch of the spacecraft. If a license has been issued, please provide a copy or summary of the terms and conditions of that authorization. Please also confirm which entity will control the Tracking, Telemetry and Command ("TT&C") functions of the EchoStar 9 satellite.

⁴ See 47 C.F.R. § 25.114(f) (2001).

⁵ See Modification Application at 2 n.3.

⁶ See ITU Radio Regulations at Article S18.1.

When submitting the amended application, we remind you that Section 25.114 of the Commission rules, 47 C.F.R. § 25.114, requires that applications for modifications of space station authorizations must supply all the information required under Section 25.114(c) (including, for example, satellite power budgets). Please ensure that any amendment addresses this requirement fully.

Sincerely,



Cassandra C. Thomas
Deputy Chief,
Satellite Division

Cc: Phillip L. Malet
Pantelis Michalopoulos
Counsel for EchoStar Satellite Corp.



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December 20, 2002

Mr. Dara A. Panahy, Esquire
Milbank, Tweed, Hadley & McCloy, LLP
International Square Building
1825 Eye Street, N.W.
Washington, D.C. 20006


Re: Petition for Declaratory Ruling by Binariang Satellite Systems to Add the
MEASAT-2 Satellite to the Commission's Permitted Space Station List (SAT-
PDR-20010801-00069)

Dear Mr. Panahy:

An examination of the above-referenced petition shows that the MEASAT-2 satellite does not meet Sections 25.210(a)(2), (a)(3), (e), (f), and (g) of the Commission's Rules. 47 C.F.R. §§25.210(a)(2), (a)(3), (e), (f), and (g). Because you did not request a waiver of any of these rules, we are dismissing your petition without prejudice to refiling. In addition, we cannot determine from your petition or from our records whether MEASAT-2 complies with Section 25.210(i) of our rules, 47 C.F.R. §25.210(i), concerning cross-polarization isolation. Please address this issue in any refiling to facilitate our review of your petition.

If you have further questions, please contact Jay Whaley of my staff at (202) 418-7184.

Sincerely,

for 
Thomas S. Tycz
Chief,
Satellite Division