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## By Hand Delivery

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, D.C. 20554

October 9, 2002



File # \_\_\_\_\_

Call Sign \_\_\_\_\_ Grant Date 10/23/02  
(or other identifier)

From \_\_\_\_\_ Term Dates  
To \_\_\_\_\_

Approved: *[Signature]*

Re: Constellation Communications Holdings, Inc., Applications for Transfer of Control and Minor Modification of License (File Nos. SAT-T/C-20020718-00114 and SAT-MOD-20020719-00103)

Mobile Communications Holdings, Inc., Applications for Transfer of Control and Minor Modification of License (File Nos. SAT-T/C-20020719-00104 and SAT-MOD-20020719-00105)

Dear Ms. Dortch:

Pursuant to Section 1.1200(a) of the Commission's rules,<sup>1</sup> ICO Global Communications (Holdings) Limited ("ICO")<sup>2</sup> requests the Commission to modify the *ex parte* status of the above-referenced proceedings from "restricted" to "permit-but-disclose."<sup>3</sup>

On September 4, 2002, AT&T Wireless Services, Inc., Verizon Wireless, and Cingular Wireless LLC filed a petition to deny the above-referenced applications ("Applications"). The petition raised several issues, including: (1) whether Constellation Communications Holdings, Inc. ("Constellation") and Mobile Communications Holdings, Inc. ("MCHI") have met the first milestone condition for their 2 GHz MSS licenses; (2) whether basic qualifications issues exist regarding Constellation and MCHI; (3) whether the proposed transfers of control would violate

<sup>1</sup> 47 C.F.R. § 1.1200(a).

<sup>2</sup> ICO is a party to the above-referenced applications for transfer of control and to the proposed satellite sharing arrangements at issue in the above-referenced applications for minor modification.

<sup>3</sup> The above-referenced applications are applications for authority under Title III of the Communications Act and, therefore, are generally designated as restricted proceedings under the Commission's *ex parte* rules. See 47 C.F.R. § 1.1208.

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the anti-trafficking rule; and (4) whether the Commission's rules allow spectrum aggregation among 2 GHz MSS licensees.

The Commission is authorized under Section 1.1200(a) of its rules to modify the *ex parte* status of a proceeding “[w]here the public interest so requires.”<sup>4</sup> The Commission has exercised this authority to apply permit-but-disclose rules to otherwise restricted proceedings that raise broader policy issues.<sup>5</sup> The Commission also typically applies permit-but-disclose rules to interrelated proceedings that share complex legal, technical, and policy issues.<sup>6</sup> The Commission has explained that when a proceeding “raises complex technical, legal and policy issues,” it is “essential that the Commission obtain the most current information available.”<sup>7</sup> Under that circumstance, a modification of the *ex parte* status of the proceeding to permit-but-disclose would “assist the Commission in developing a complete record on which a well-reasoned decision can be made.”<sup>8</sup>

The Applications raise policy and legal issues that may have broader implications for 2 GHz MSS, such as the proper interpretation and enforcement of the milestone conditions, anti-trafficking rule, and other 2 GHz MSS rules. Moreover, the Applications are interrelated and share common policy and legal issues, such as the status of the Constellation and MCHI 2 GHz MSS licenses and the public interest benefits derived from a shared or integrated 2 GHz MSS

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<sup>4</sup> 47 C.F.R. § 1.1200(a).

<sup>5</sup> See, e.g., FCC Public Notice, *Lockheed Martin Corp., Regulus, LLC, Comsat Corp., and Comsat Government Services, Inc. Seek FCC Consent for Transactions*, Rep. No. SPB-139 (IB Oct. 23, 1998) (redesignating *ex parte* status of transfer of control application involving Section 214 and earth station authorizations to permit-but-disclose “in light of the broader policy issues potentially involved in this transaction”); *EchoStar Satellite Corp.*, 15 FCC Rcd 13797 (IB 2000) (redesignating *ex parte* status of application for minor modification of direct broadcast satellite authorizations to permit-but-disclose because it is “inextricably intertwined with complex, interrelated legal, technical and policy issues associated with the implementation of DBS systems serving the States of Hawaii and Alaska”).

<sup>6</sup> See, e.g., *SatCom Systems, Inc. and TMI Communications and Co., L.P.*, 13 FCC Rcd 16219 (IB 1998) (redesignating *ex parte* status of L-band MSS license applications to permit-but-disclose because many of the legal, technical, and policy issues are interrelated); FCC Public Notice, *Applications and Letters of Intent Filed by Nine Parties to Launch and Operate Systems to Provide Mobile Satellite Service in the 2 GHz Band*, Rep. No. SPB-132 (IB July 29, 1998) (redesignating *ex parte* status of 2 GHz MSS license applications to permit-but-disclose because of the interrelatedness among those proceedings and a pending rulemaking petition).

<sup>7</sup> *Application of Skybridge L.L.C.*, 13 FCC Rcd 11076, 11076 (IB/OET 1998).

<sup>8</sup> *Id.*

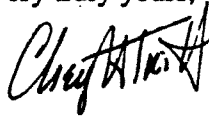
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system. Resolution of these issues will require the Commission to have full access to current information pertaining to all of the interrelated applications. Accordingly, the requested modification of the *ex parte* status of these proceedings will serve the public interest by facilitating the exchange of information between the parties and the Commission staff, while ensuring the development of a complete record that is available to the public.

Please direct any questions regarding this submission to the undersigned.

Very truly yours,



Cheryl A. Tritt  
Counsel to ICO Global Communications (Holdings)  
Limited

Attachment

cc: Parties on the attached Certificate of Service

## CERTIFICATE OF SERVICE

I, Theresa L. Pringleton, hereby certify that a copy of the foregoing letter has been served this 9<sup>th</sup> day of October 2002 via electronic mail or First Class U.S. Mail (\*) on the following:

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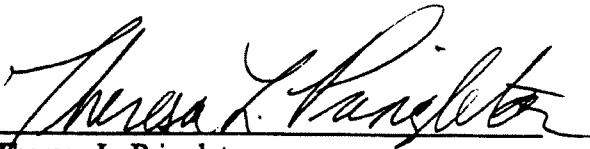
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