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Policy Branch
International Bureau

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

Re: Mobile Satellite Ventures Subsidiary LLC
Ex Parte Presentation
File No. SAT-MOD-20031118-00333 (ATC application)
File No. SAT-AMD-20031118-00332 (ATC application)
File No. SES-MOD-20031118-01879 (ATC application)

Dear Ms. Dortch:

In connection with the above-referenced applications, there has been some discussion of the number of waivers that MSV has requested. See Opposition of Inmarsat Ventures Ltd. (March 25, 2004), at 5-7. (A copy of Inmarsat's "list" is attached hereto as Exhibit A.) From MSV's perspective, there are only two principal contested waiver requests: (i) to increase the amount of reuse permitted in the uplink portion of the band and (ii) to increase the output power of MSV's base stations in the downlink portion of the band.

Four of the items in MSV's application that have been characterized as waivers (Exh. A, items 1, 2, 3, and 10) actually involve variables in the formula that the Commission adopted for determining whether an ATC deployment exceeds the permitted level of potential interference in the uplink portion of the band. The ATC Order recognized and invited modification of these variables in the "baseline" that was used to create the formula.¹ Consistent with this invitation, MSV has shown that it can modify certain of the variables without increasing the level of potential interference to Inmarsat or other co-channel systems. As indicated above, MSV has also sought an increase in the overall permitted level of potential co-channel intersystem interference, to 6% ΔT/T. This is the only true waiver request regarding MSV's operations in the uplink part of the MSS L-band. (MSV's request for authority to operate simultaneously more than 90,000 mobile terminals (Exh. A, item 9) flows from this request and is also based on the redundancy of a limit on reuse and a limit on the simultaneous MT operations. Technically, the

¹ See *Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962, ¶ 147 (February 10, 2003) ("ATC Order"). See also Note to 47 C.F.R. § 25.253.

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request is not for a waiver, since the limit was not incorporated into the rules, but was only referred to in the ATC Order.)

Another five of the items that have been characterized as waivers (Exh. A, items 4, 5, 6, 7, and 8) all flow from what is actually a single request to permit MSV to increase the power of its base stations in the downlink portion of the band by up to 15 dB in order to reduce the number of base stations required and the cost of their deployment. MSV has demonstrated that this can be done without causing interference to Inmarsat mobile terminals in the vicinity of such base stations. NTIA and Industry Canada have largely agreed with this request. In a related request, MSV also demonstrated that a relaxation of the limit on base station overhead gain suppression would have a nominal impact on interference potential. Again, NTIA and Industry Canada agreed that a change in this limit is reasonable.

MSV has not requested a waiver of the dual-mode handset requirement (Exh. A, item 12). In fact, MSV's application demonstrates how and why its handsets will comply with this gating factor. Finally, MSV's request to operate an in-orbit spare (Exh. A, item 11) is unopposed.

Please direct any questions regarding this matter to the undersigned.

Very truly yours,



Lon C. Levin

cc: Donald Abelson
James Ball
William Bell
Sam Feder
Anna Gomez
Howard Griboff
Paul Locke
Jennifer Manner
Paul Margie
Kathryn Medley
Barry Ohlson
Sankar Persaud
Roderick Porter
Thomas Tycz
Sheryl Wilkerson

EXHIBIT A

Opposition of Inmarsat Ventures Ltd. (March 25, 2004)

application are a rehashing of what MSV has said before. These arguments either have been raised and rejected in the NPRM portion of the ATC rulemaking proceeding or fully briefed in the reconsideration phase.

Although MSV characterizes it as “few instances” where it seeks “flexibility to vary from the specific technical rules,”¹¹ there in fact are twelve (12) technical waivers or variances sought by MSV. Specifically, MSV requests:

- 1) A waiver to increase the number of ATC base stations above the 1725 limit based on:
 - a. Requiring Inmarsat to accept a significant increase in uplink interference to a total of 6% $\Delta T/T$;¹²
 - b. MSV’s plans to deploy 80 percent (rather than 50 percent) of its ATC base stations in the United States;¹³
 - c. The assertion that MSV’s mobile terminals have an average antenna gain calculated to be -4 dBi or less when operating in the “ATC mode,” but an unspecified EIRP;¹⁴ and

¹¹ ATC Application at 2.

¹² ATC Application at 12. See also, e.g., Letter from MSV to Secretary, FCC, *ex parte* letter, IB Docket no. 01-185 at 1 (filed January 28, 2003) (“January 28, 2003 MSV *ex parte*”); Letter from MSV to Secretary, FCC, *ex parte* letter, IB Docket No. 01-185 at 2 (filed January 24, 2003); Letter from MSV to Secretary, FCC, *ex parte* letter, IB Docket no. 01-185 at 1 (filed January 21, 2003); cf., e.g., Letter from Inmarsat to Secretary, FCC, *ex parte* presentation entitled “Terrestrial Use of the L-Band,” IB Docket No. 01-185 at 17 (filed November 5, 2002); Letter from Inmarsat to Secretary, FCC, *ex parte* letter, IB Docket No. 01-185 at 2-3 (filed January 10, 2003); Letter from Inmarsat to Secretary, FCC, *ex parte* letter, IB Docket No. 01-185 at 1-2 (January 23, 2003); see also See *Petition For Partial Reconsideration and Clarification of Mobile Satellite Ventures Subsidiary LLC*, IB Docket No. 01-185 at 9 (July 7, 2003) (the “MSV Petition”); cf. *Inmarsat Opposition to Petition For Partial Reconsideration and Clarification of Mobile Satellite Ventures Subsidiary LLC*, IB Docket No. 01-185 at 9-11 (August 20, 2003) (“Inmarsat Opposition”). Most of MSV’s requests are a reiteration of issues raised earlier in the ATC proceeding. Where this is true, Inmarsat cites in the footnotes to this Section I where the issue was raised and to certain relevant filings related to the subject.

¹³ ATC Application at n. 27. See MSV Petition at 6; cf. Inmarsat Opposition at 6-8 and Opposition Technical Annex § 2.1.

- d. MSV's proposed use of a self-interference cancellation technique that purportedly will prevent ATC from increasing MSV's noise floor by more than 6% $\Delta T/T$, but has no impact on the ATC interference generated into Inmarsat;¹⁵
- 2) A waiver of the requirement to use quarter-rate vocoders as specified by the *ATC Order*;¹⁶
 - 3) A waiver to permit the unlimited use of those frequencies not used by Inmarsat (or any other MSS operator) anywhere in the world that could be visible from the ATC service area;¹⁷
 - 4) A waiver of the rule that L-band ATC base stations not exceed a peak EIRP of 19.1 dBW, in a 200 kHz per carrier, with no more than three carriers per sector¹⁸ such that MSV may operate ATC base stations with an aggregate EIRP per sector of up to 38.9 dBW EIRP provided the aggregate EIRP of all the base stations within a 50 mile radius does not exceed 58.3 dBW in any given direction;¹⁹
 - 5) A waiver of the rule that L-band ATC base stations not exceed an EIRP toward the physical horizon (not to include man-made structures) of 14.1 dBW per carrier in 200 kHz such that MSV may operate its ATC base stations with an aggregate EIRP per sector of up to 33.9 dBW toward the physical horizon (not to include man-made structures);²⁰
 - 6) A waiver of the rule protecting aeronautical MSS services such that MSV's ATC base stations may either: (i) be located at least 470 meters from any airport runway or aircraft stand area, including takeoff or landing paths; or

¹⁴ *ATC Application* at n. 27.

¹⁵ *ATC Application* at 12.

¹⁶ *ATC Application* at 13-14 & n. 245. *See also MSV Petition* at 14; cf. *Inmarsat Opposition* at 15 and *Opposition Technical Annex* § 3.

¹⁷ *ATC Application* at n. 27. *See also* Letter from Lon Levin, MSV, to Marlene H. Dortch, Secretary, FCC (Jan. 16, 2003).

¹⁸ *See* 47 C.F.R. § 25.253(d)(1).

¹⁹ *ATC Application* at n. 30. *See also MSV Petition* at 16-19; cf. *Inmarsat Opposition* at 15-16 and *Opposition Technical Annex* § 4.

²⁰ *ATC Application* at n. 31. *See also MSV Petition* at 18; cf. *Inmarsat Opposition* at 15-16 and *Opposition Technical Annex* § 4.

- (ii) not exceed a PFD level of $-49.6 \text{ dBW/m}^2/\text{carrier}$ at the edge of all airport runway or aircraft stand area, including takeoff or landing paths;²¹
- 7) A waiver of the rule requiring L-band ATC base stations to meet a PFD limit of $-64.6 \text{ dBW/m}^2/200 \text{ kHz}$ at the water's edge of any navigable waterway such that MSV's ATC base stations may either: (i) be located at least 1.5 km from the boundaries of all navigable waterways; or (ii) not exceed a PFD level of $-54.4 \text{ dBW/m}^2/\text{carrier}$ at the water's edge of any navigable waterways;²²
 - 8) A waiver of the overhead gain suppression restrictions so as to allow MSV to relax the restriction by 10 dB over the range of elevation angles from 55° to 145° and by 8 dB over the range of elevation from 30° to 55° ;²³
 - 9) A waiver of the 90,000 mobile terminal peak traffic limit;²⁴
 - 10) A variance to permit MSV to deploy ATC capable of supporting both GSM and CDMA air interface protocols;
 - 11) A waiver to use another company's spacecraft to satisfy the satellite ground spare requirement; and
 - 12) A variance from the use of a "safe harbor" dual mode handset necessary to demonstrate an integrated MSS/ATC system.²⁵

Inmarsat does not take a position on (11) and (12) above, but each of the other requested waivers and variances constitutes a departure from the ATC service rules that threatens to undermine the Commission's carefully constructed ATC framework. As the Commission has emphasized: "We view full and complete compliance with each of the requirements as essential to the integrity of our 'ancillary' licensing regime."²⁶

²¹ ATC Application at n.32. See also MSV Petition at 20-22; cf. Inmarsat Opposition at 18-19 and Opposition Technical Annex § 6.

²² ATC Application at n.33. See also MSV Petition at 16-19; cf. Inmarsat Opposition at 15-16 and Opposition Technical Annex § 4.

²³ ATC Application at n.35. See also MSV Petition at 19-20; cf. Inmarsat Opposition at 17-18 and Opposition Technical Annex § 5.

²⁴ ATC Application at 24. See also February 5, 2002 MSV Presentation at 22.

²⁵ ATC Application at 10.

²⁶ ATC Order at ¶ 66 (emphasis added).