

FOR INTERNAL USE ONLY
NON-PUBLIC

Samir C. Jain

+1 202 663 6083(t)

+1 202 663 6363(f)

samir.jain@wilmerhale.com

June 22, 2010

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

FILED/ACCEPTED

JUN 22 2010

Federal Communications Commission
Office of the Secretary

**Re: REQUEST FOR CONFIDENTIAL TREATMENT PURSUANT TO
SECTIONS 0.457 AND 0.459 GLOBALSTAR LICENSEE, LLC
File No. SAT-MOD-20091214-00152**

Dear Ms. Dortch:

Globalstar Licensee LLC (“Globalstar”), by its attorneys, hereby submits the attached Technical Response and accompanying Attachments (“Response and Attachments”) in response to a request from staff in the Commission’s International Bureau relating to the status of the deployment of Globalstar’s second-generation satellite constellation, Globalstar 2.0, in connection with the Commission’s consideration of the above-referenced application.^{1/} Globalstar respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission’s rules, 47 C.F.R. §§ 0.457, 0.459, the Commission withhold from public inspection and accord confidential treatment to the Response and Attachments, which contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act (“FOIA”).^{2/}

Exemption 4 permits parties to withhold from public information “trade secrets and commercial or financial information obtained from a person and privileged or confidential categories of materials not routinely available for public inspection.”^{3/} Applying Exemption 4, the courts have stated that commercial or financial information is confidential if its disclosure will either (1) impair the government’s ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. *See National Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)(footnote omitted); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993). Section 0.457(d)(2) allows persons

^{1/} Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities (File No. SAT-MOD-20091214-00152), filed on December 14, 2009 (“Globalstar Application”).

^{2/} *See* 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

^{3/} *Id.*

FOR INTERNAL USE ONLY
NON-PUBLIC

June 22, 2010

Page 2

submitting materials that they wish to be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459. In accordance with the requirements contained in Section 0.459(b) for such requests, Globalstar hereby submits the following:

(1) *Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))*. Globalstar seeks confidential treatment of the Response and Attachments, which contain information about the final testing, delivery, and launch schedule of the satellites that will constitute the Globalstar 2.0 satellite constellation.

(2) *Description of Circumstances Giving Rise to Submission (Section 0.459(b)(2))*. Globalstar is filing the Response and Attachments at the request of staff in the Commission's International Bureau to aid in the Commission's consideration of a pending application filed by Globalstar. See Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities (File No. SAT-MOD-20091214-00152), filed on December 14, 2009.

(3) *Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3))*. The Response and Attachments contain sensitive commercial information that Globalstar's competitors could use to Globalstar's disadvantage. The courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings. The Commission has broadly defined commercial information, stating that "[c]ommercial" is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations." The information contained in the Response and Attachments falls clearly within the definition of commercial. Competitors could use this information to enhance their market position at Globalstar's expense.

(4) *Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4))*. Substantial competition exists in the mobile satellite service industry. The presence of competitors makes imperative the confidential treatment of sensitive commercial information. Indeed, for this reason, Globalstar's primary competitor, Iridium Satellite LLC, routinely requests and has obtained confidential treatment of information submitted to the Commission concerning the status of its mobile satellite service constellation. See, e.g. Iridium Communications Inc., 1.6/2.4 GHz Mobile Satellite System License, Call Sign S2110, Section 25.143(e) Annual Report and Request for Confidential Treatment Pursuant to Sections 0.457 and 0.459 (filed Oct. 15, 2009).

(5) *Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))*. As explained above in Section 3, release of the

June 22, 2010
Page 3

information contained in the Response and Attachments could have a significant impact on Globalstar's commercial operations. If competitors or customers had access to this information, it could negatively affect Globalstar's future negotiations with potential and existing customers.

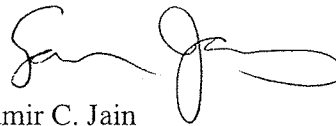
(6) *Identification of Measures Taken To Prevent Unauthorized Disclosure (Section 0.459(b)(6))*. The information contained in the Response and Attachments is subject to a Confidentiality Agreement between Globalstar and Thales Alenia and Globalstar treats it as confidential information and has not disclosed it publicly. Globalstar limits access to the information contained in the Response and Attachments to necessary personnel only. In addition, Globalstar takes precautions to ensure that this information is not released to the general public or obtained by its competitors through other means.

(7) *Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of Information to Third Parties (Section 0.459(b)(7))*. Globalstar has not made the information in the Response and Attachments available to the public and has not disclosed the information to any third parties.

(8) *Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8))*. Globalstar respectfully requests that the Commission withhold the information in the Response and Attachments from public inspection indefinitely. This information will remain commercially sensitive until the Globalstar 2.0 satellite constellation is launched and becomes fully operational.

Should there be any questions concerning this matter, please contact the undersigned.

Sincerely yours,



Samir C. Jain

Counsel to Globalstar Licensee LLC

cc: Roderick Porter
Karl Kensinger

Confidential Attachment