

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Intelsat License LLC) File Nos.
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Application to Modify Authorization for) SAT-MOD-20140829-00097
Intelsat 5) SAT-STA-20140502-00047
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Intelsat License LLC) Call Sign: S2704
)
Application for Space Station Temporary)
Authority)
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COMMENTS OF ABS GLOBAL, LTD.

ABS Global, Ltd., formerly known as Asia Broadcast Satellite, Ltd. (“ABS”), files these Comments to express its significant concerns about the above-referenced applications (the “Applications”) of Intelsat License LLC (“Intelsat”). The Applications – one for Special Temporary Authority (“STA”), the other for permanent authority – propose to relocate the Intelsat 5 satellite from 50.15° E.L. to 157.0° E.L. and to operate the satellite at the latter orbital position. As Intelsat is aware, such operation would cause substantial degradation to certain C-band services that ABS anticipates providing to customers over the ABS-6 satellite, located at 159.0° E.L., and would affect ABS’ ability to offer services competitive with those being offered by Intelsat from the adjacent location. Accordingly, ABS requests that Intelsat not be permitted to commence non-TT&C related transmissions in a portion of the C-band to or from Intelsat 5 at 157° E.L. until such time as Intelsat has successfully completed coordination procedures with ABS.

I. BACKGROUND

ABS, a global satellite operator, offers a complete range of satellite services (including direct-to-home, cable television distribution, cellular backhaul, VSAT and Internet backbone) to both public and private sector customers in Europe, Africa, Asia and the Middle East. ABS operates a fleet of six satellites serving 80% of the world and has procured two additional satellites planned for launch in 2015.

ABS began operating ABS-6 at the 159° E.L. location earlier this year, pursuant to an International Telecommunication Union (“ITU”) satellite network filing of the Administration of Papua New Guinea (“PNG”). ABS-6 is a multi-payload C/Ku-band satellite covering the Pacific Ocean region and East Asia, and ABS provides over this satellite a wide range of critical telecommunications services to customers in the region.

The ABS-6 and Intelsat 5 satellites do not have any frequency overlap in the Ku-band, as Intelsat also recognizes,¹ and accordingly ABS does not object to Intelsat’s operation of Intelsat 5 in this frequency band at the 157° orbital location.² The satellites do have substantial frequency overlap, however, in the C-band, and specifically with respect to the bands 5925-6025 MHz and 3700-4000 MHz. In these bands, the operation of Intelsat 5 as specified in the Applications would cause harm to planned future services on ABS-6, including vital lifeline services expected to be provided to remote and rural areas in the Asia-Pacific region, and would harm competition by preventing ABS from making commercially viable use of the C-band beams on ABS-6.

Intelsat has long been aware of the nature of ABS’ concerns with respect to the Intelsat 5 satellite and its predecessor at the orbital location, Intelsat 706. The two

¹ *Application of Intelsat License LLC to Modify Authorization for Intelsat 5*, File No. SAT-MOD-20140829-00097 (filed Aug. 29, 2014)(“Permanent Application”), Engineering Statement at 2 n.1.

² Because the two operators’ satellites will, once Intelsat 5 is in operation at the 157° slot, no longer overlap in the Ku-band, as well as in the extended C-band, it would be ABS’ expectation that the operator-to-operator constraints discussed between the parties with respect to these bands would no longer be applicable, and that Intelsat would agree in writing with ABS on this principle of non-applicability.

companies have conducted operator-to-operator coordination meetings with respect to the 157° and 159° locations on no fewer than five occasions, dating back to 2009, and as recently as April 2014. The PNG Administration wrote to the FCC about certain of these matters in May 2014. The Intelsat Application for permanent authority for Intelsat 5 to operate at 157°, while stating the company’s laudable intention to operate Intelsat 5 “in conformance with its coordination agreements,”³ notably fails to mention that it has not reached agreement with ABS on a plan for using the overlapping C-band frequencies at the adjacent orbital slots.

II. PROCEDURAL MATTERS

ABS recognizes that, from a procedural standpoint, these Comments are both premature (in terms of the Permanent Application) and late (in terms of the STA Application). The unusual timing circumstances, however, suggest that these Comments should be considered by the Federal Communications Commission (the “Commission” or “FCC”) now.

The STA Application was placed on public notice by the Commission on May 30, 2014,⁴ and accordingly the time period within which comments were supposed to be filed expired some time ago. ABS regrets that, as a small company with limited regulatory resources, it was not aware of the STA Application when it was accepted for filing by the Commission; had ABS been so aware, it would have filed comments within the required time period. To ensure that the public interest is served by all perspectives being considered in the Commission’s review of the STA Application, which remains pending, ABS requests that these Comments be accepted for filing notwithstanding the passage of time. To the extent that waiver of any Commission Rule is required, such waiver is hereby requested.

³ Permanent Application at 4.

⁴ See *Policy Branch Information, Satellite Space Applications Accepted for Filing*, Report No. SAT-01018, File No. SAT-STA-20140502-00047 (May 30, 2014) (Public Notice).

The Permanent Application, on the other hand, has not yet been accepted for filing by the Commission. ABS nonetheless believes that these Comments are timely, given that Intelsat has stated its intention to begin providing services over Intelsat 5 from the relevant orbital location within a few weeks, “in early October 2014,”⁵ and recognizing the close linkage between the arguments made by Intelsat in the STA Application and in the Permanent Application. If the Commission has not earlier resolved the underlying issues, or if the parties have not themselves reached agreement on how to handle these issues, ABS would expect to file a Petition to Deny once the Permanent Application is placed on public notice.

III. INTELSAT SHOULD NOT BE PERMITTED TO OPERATE IN A PORTION OF THE C-BAND AT 157° E.L. UNTIL IT COORDINATES WITH ABS.

Section 25.140(a) of the Commission’s Rules is clear that those seeking FCC authorization for a space station must in their “interference analysis . . . demonstrate the compatibility of their proposed system with respect to authorized space stations within 2 degrees of any proposed satellite point of communication.”⁶ Intelsat has failed to meet this threshold requirement.

Intelsat in the Applications does not acknowledge that Intelsat 5’s operations at 157° would cause significant harm to ABS-6 operations in the portion of the C-band specified above. The Permanent Application contains an “interference analysis” that purports to consider ABS-6,⁷ but in fact the analysis does not consider the earth station sizes that Intelsat knows are intended to be used in C-band by ABS and its customers. Intelsat has inappropriately assumed in its analysis that ABS and its customers would use very large earth

⁵ Permanent Application at 2.

⁶ 47 C.F.R. § 25.140(a).

⁷ *Id.*, Engineering Statement at 2 & Ex. 5.

stations (5.5 meters or larger in diameter) to communicate in C-band with the ABS-6 satellite.

Even worse, Intelsat's analysis assumes that ABS' operations would protect Intelsat's use of smaller earth stations in C-band, thereby deliberately seeking to use the regulatory process to create a competitive imbalance in the region in Intelsat's favor over ABS.⁸

Intelsat is certainly aware that it is required by the Commission's Rules, as well as by applicable FCC and ITU precedent, to complete coordination with adjacent satellite networks, including networks operating under the authority of non-US Administrations. Just two years ago, in 2012, Intelsat faced a similar situation when it attempted to move a satellite in a manner that would have caused harmful interference to another small operator, Yahsat, operating under the authority of the Administration of the United Arab Emirates. In that case the FCC International Bureau granted an STA requested by Intelsat, despite Yahsat's objections that coordination had not been completed and that interference to Yahsat's operations would occur, apparently because of extraordinary circumstances cited by Intelsat involving "a U.S. military customer in the Middle East region." But the Bureau, recognizing the need for Intelsat to complete coordination with Yahsat, kept Intelsat on a "short leash," giving it just a 30-day STA (in contrast to the 180-day STA being requested by Intelsat here), and taking the extraordinary step of requiring that Intelsat provide the FCC with weekly updates regarding the status of coordination discussions with Yahsat and whether a coordination agreement was likely.⁹

⁸ Intelsat's anticompetitive efforts in this regard are particularly striking when it is considered that Intelsat is more than 25 times larger (by annual revenue) than ABS. *See* Intelsat S.A., Annual Report (Form 20-F), at 3 (Feb. 20, 2014), <http://www.sec.gov/Archives/edgar/data/1525773/000119312514060573/d597626d20f.htm> (indicating Intelsat had 2013 annual revenue of over \$2.6 billion).

⁹ *See Application of Intelsat Licensee LLC to Modify Authorization for Galaxy 26*, File No. SAT-MOD-20110420-00073 (stamp grant, Mar. 2, 2012); *Request for Further Extension of Special Temporary Authority for Galaxy 26*, File No. SAT-STA-20120125-00012 (stamp grant, Feb. 2, 2012); Comments of Al Yah Satellite Communications Company PrJSC, File No. SAT-MOD-20110420-00073 (filed June 6, 2011); Reply Comments of Al Yah Satellite Communications Company PrJSC, File No. SAT-MOD-20110420-00073 (filed July 1, 2011); Letter from Kalpak Gude, Intelsat, to Robert G. Nelson, FCC, dated January 11, 2012; Letter from Susan Crandall, Intelsat, to Marlene Dorch, FCC, dated January 25, 2012. *See also* Loral Orion Services, 14 FCC Rcd 17665 (1999) (precluding commercial operations pending completion of coordination with adjacent operators).

IV. CONCLUSION

For the foregoing reasons, the Commission should not grant either the STA Application or the Permanent Application to the extent that each is requesting authority for Intelsat to engage in non-TT&C transmissions in the C-band (and specifically, in the frequency bands 5925-6025 MHz and 3700-4000 MHz) over Intelsat 5 from the orbital location of 157° E.L., until such time as ABS and Intelsat jointly inform the Commission that they have reached a mutually satisfactory coordination agreement involving Intelsat 5 and ABS-6. ABS is committed to engaging immediately in discussions with Intelsat with a view toward finding a mutually acceptable agreement with respect to the adjacent operations of these two satellites.

Respectfully submitted,

ABS Global, Ltd.

By: /s/ Arlene Kahng

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CERTIFICATE OF SERVICE

I, Arlene Kahng, hereby certify that on this 19th day of September, 2014, I caused to be served a true copy of the foregoing “Comments of ABS Global, Ltd.,” by electronic mail upon the following:

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