

June 16, 2017



Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: Update on Use of Ku-Band Frequencies at Nominal 29.5° W.L.  
Intelsat 701, Call Sign S2400, SAT-MOD-20160425-00040  
Intelsat 9, Call Sign S2380; File No. SAT-MOD-20161110-00105

Dear Ms. Dortch:

Intelsat License LLC (“Intelsat”) files this letter to update the Federal Communications Commission (“FCC” or “Commission”) on its use of Ku-band frequencies 10.95-11.2 GHz and 12.5-12.75 GHz at the nominal 29.5° W.L. orbital location following the retirement of Intelsat 701 (Call Sign S2400) and the relocation of Intelsat 9 (Call Sign S2380) to 29.5° W.L. Specifically, Intelsat hereby informs the Commission that pursuant to Article XII of the International Telecommunications Satellite Organization (“ITSO”) Agreement (“ITSO Agreement”), as amended for effectiveness as of January 16, 2017, Intelsat has not, and is not, waiving or otherwise relinquishing its Ku-band frequency assignment rights at the nominal 29.5° W.L. location so that these frequencies thus remain subject to Article XII(c)(i) of the ITSO Agreement and may not be relicensed to any other entity. For purposes of the Commission’s satellite licensing rules and policies, Intelsat further notifies the Commission that it currently plans to operate another Intelsat satellite using the 10.95-11.2 GHz frequencies at nominal 29.5° W.L. within the next several months. To the extent necessary, Intelsat requests that the Commission retain Intelsat’s replacement expectancy at this location. In addition, to the extent a waiver of any Commission rules is required to enable Intelsat to use its 29.5° W.L. Ku-band authorization, Intelsat requests that such waiver be granted at this time or upon the filing of an application for authorization to bring a satellite into operation at this location, as appropriate.

## I. FACTUAL BACKGROUND

In 2000, the FCC authorized Intelsat to operate Intelsat 701 at the 180° E.L. orbital location<sup>1</sup> and in 2014, authorized operation of Intelsat 701 at the 29.5° W.L. orbital location.<sup>2</sup> The

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<sup>1</sup> *Applications of Intelsat LLC for Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, Memorandum Opinion, Order, and Authorization, 15 FCC Rcd 15460 (2000) (authorizing operation of INTELSAT 701 at 180° E.L.) (“Intelsat 701 Authorization”).

<sup>2</sup> Application of Intelsat License LLC to Modify Authorization for Intelsat 701, File No. SAT-MOD-20130513-00068 (stamp grant June 27, 2014).

authorization permitted Intelsat 701 to operate using the 10.95-11.2 GHz and 12.5-12.75 GHz Ku-band frequencies as well as other frequencies in the C- and Ku-bands.<sup>3</sup> Intelsat 701 was expected to operate through the end of 2018.<sup>4</sup> However, Intelsat recently determined that Intelsat 701 did not have as much propellant as believed, likely due to a leak. Accordingly, Intelsat decided to de-orbit the satellite much earlier than it had planned to. Intelsat recently notified the Commission that Intelsat 701 completed its deorbit on May 25, 2017.<sup>5</sup>

Intelsat 9 was previously authorized to operate in the C- and Ku-bands at 43.1° W.L.<sup>6</sup> In 2017, Intelsat received Commission authorization to relocate Intelsat 9 to 29.5° W.L. in order to provide additional capacity at that orbital location.<sup>7</sup> However, Intelsat 9 is not authorized to operate using the 10.95-11.2 GHz and 12.5-12.75 GHz Ku-band frequencies.<sup>8</sup>

## II. DISCUSSION

### A. The ITSO Agreement Prohibits the Commission from Re-Licensing Intelsat's Assigned Ku-Band Frequencies at the Nominal 29.5° W.L. Orbital Location.

Article XII(c)(i) of the ITSO Agreement obligates the United States, as transferee, to “authorize the use of such [transferred] frequency assignments by the Company [Intelsat] so that the Core Principles may be fulfilled.”<sup>9</sup> The recent Columbia Amendment provides the only exception to that international obligation:

In the event that the Company, or any future entity using the Common Heritage frequency assignments, waives such frequency assignment(s), uses such assignment(s) in ways other than those set forth in this Agreement, or declares bankruptcy, the Notifying Administrations shall authorize the use of such frequency assignment(s) only by entities that have signed a public services agreement, which will enable ITSO to ensure that the selected entities fulfill the Core Principles.<sup>10</sup>

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<sup>3</sup> *Id.*

<sup>4</sup> Intelsat License LLC Request to Modify Authorization, File No. SAT-MOD-20160425-00040 (stamp grant issued June 18, 2016) (extending Intelsat 701 license term through December 31, 2018).

<sup>5</sup> Letter from Susan H. Crandall, Associate General Counsel, Intelsat Corporation, to Marlene H. Dortch, Secretary, FCC, Re: Intelsat 701, Call Sign: S2400 (May 26, 2017).

<sup>6</sup> *See* Application of Intelsat License, LLC to Modify Authorization for Intelsat 9, File No. SAT-MOD-20120703-00110 (stamp grant May 21, 2014).

<sup>7</sup> Application of Intelsat License LLC to Modify Authorization for Intelsat 9, File No. SAT-MOD-20161110-00105 (stamp grant May 4, 2017).

<sup>8</sup> *See id.*

<sup>9</sup> ITSO Agreement, Article XII(c)(i).

<sup>10</sup> *Id.* at subsection (c)(ii) (as amended).

With regard to the Ku-band frequencies at the nominal 29.5° W.L. orbital location, Intelsat has not: (1) “waive[d] such frequency assignment[]”; (2) “use[d] such frequency assignment[] in ways other than those set forth in [the ITSO Agreement]; or (3) “declare[d] bankruptcy.” Accordingly, Article XII(c) of the ITSO Agreement does not permit the Commission, on behalf of the United States, to re-license these frequencies to an entity other than Intelsat.

**B. To the Extent Required, Intelsat Seeks Continuation of Its Replacement Expectancy at the Nominal 29.5° W.L. Orbital Location.**

In light of the deorbit of Intelsat 701, Intelsat is revising its satellite fleet deployment plan to continue operations in the 10.95-11.2 GHz and 12.2-12.75 GHz Ku-band frequencies at the nominal 29.5° W.L. orbital location. Intelsat plans to operate a satellite using these Ku-band frequencies at nominal 29.5° W.L. within the next three years and, indeed, has plans to bring another Intelsat satellite to the location in the next several months that will operate in 10.95-11.2 GHz. These timeframes satisfy the ITU’s requirement that suspended frequency assignments must be brought back into use no later than three years from the date of suspension.<sup>11</sup> Intelsat will file an application or applications seeking to use these frequencies as soon as possible. To the extent necessary, Intelsat requests that the FCC continue Intelsat’s replacement expectancy for these Ku-band frequencies pending the filing and grant of such application or applications.

The retention of Intelsat’s replacement expectancy for its authorized Ku-band frequencies at 29.5° W.L. is consistent with FCC rules and precedent. The Commission codified its longstanding policy to “grant[] applications by GSO satellite operators for authority to launch and operate replacement satellites and ‘emergency’ replacement satellites without considering competing applications.”<sup>12</sup> Under Section 25.158, the Commission does not consider applications that would compete with an application to launch and operate a replacement satellite “that will be launched before the space station to be replaced is retired from service or within a reasonable time after loss of a space station during launch or due to premature failure in orbit.”<sup>13</sup>

Here, Intelsat had planned to operate Intelsat 701 until the end of 2018. However, due to an unexpected determination that the satellite had less propellant than assumed, Intelsat de-orbited the satellite earlier than planned. Further, Intelsat plans to operate a satellite at 29.5° W.L. with these frequencies in the next three years. Intelsat respectfully requests that the Commission maintain Intelsat’s replacement expectancy during the reasonable period of time necessary to develop a new deployment plan and file an application for continued use of the relevant Ku-band frequencies at the nominal 29.5° W.L. orbital location.<sup>14</sup> Indeed, because Intelsat will have “a

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<sup>11</sup> ITU RR 11.49.

<sup>12</sup> *Comprehensive Review of Licensing & Operating Rules for Satellite Servs.*, Second Report and Order, 30 FCC Rcd 14713, 14760-61 ¶ 131 (2015).

<sup>13</sup> 47 C.F.R. § 25.158(a)(2).

<sup>14</sup> This outcome would be consistent with precedent in which the FCC found that satellite operators retained their replacement expectancy at orbital locations where they sought to fill service gaps filled by unexpected failures and at orbital locations from which operators moved space stations to meet gaps in service at other locations that experienced such failures. See *Petition of Panamsat Licensee Corp. for Specific Authority under Section 25.161(c)*

concrete plan to reinstate service” and will “timely implement[] its plan,” retaining Intelsat’s replacement expectancy at 29.5° W.L. will present “no conflicts with the Commission’s policy against spectrum warehousing.”<sup>15</sup>

Please direct any questions to the undersigned at (703) 559-7848.

Sincerely,

/s/ Susan H. Crandall

Susan H. Crandall  
Associate General Counsel  
Intelsat Corporation

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*for C and Ku-band Frequencies at the Nominal 72° E.L. Orbital Location*, Memorandum Opinion and Order, 27 FCC Rcd 2479, 2479 (2012) (concluding that Intelsat retained its replacement expectancy for certain C- and Ku-band frequencies at the nominal 72° E.L. orbital location following a gap in service caused by an unexpected failure of the satellite operating at that location) (“*2012 Panamsat Order*”); *Application of Intelsat Licensee LLC to Suspend Operations at the 129° W.L. Orbital Location*, Memorandum Opinion and Order, 27 FCC Rcd 11234, 11238 (2012) (concluding that Intelsat retained its C-band replacement expectancy at 129° W.L. when it redeployed the satellite intended for 129° W.L. to 133° W.L. as an emergency replacement when the C-band satellite operating at 133° W.L. experienced a technical anomaly that rendered it incapable of providing service).

<sup>15</sup> *2012 Panamsat Order* at 2483-84 ¶ 12.