

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1615 L STREET, NW
WASHINGTON, DC 20036-5694
TELEPHONE (202) 223-7300
FACSIMILE (202) 223-7420

1285 AVENUE OF THE AMERICAS
NEW YORK, NY 10019-8064
TELEPHONE (212) 373-3000
FACSIMILE (212) 757-3990

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)

RECEIVED

APR 28 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WRITER'S DIRECT DIAL NUMBER

202-223-7340

WRITER'S DIRECT FACSIMILE

pspector@paulweiss.com

WRITER'S DIRECT E-MAIL ADDRESS

WRITER'S DIRECT FAX

202-223-7440

RECEIVED

APR 29 2003

62, RUE DU FAUBOURG SAINT-HONORÉ
75008 PARIS, FRANCE
TELEPHONE (33 1) 53 43 14 14
FACSIMILE (33 1) 53 43 00 23

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101
FACSIMILE (81-3) 3597-8120

2918 CHINA WORLD TOWER II
NO. 1 JIANGUOMENWAI DAJIE
BEIJING, 100004
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 6505-6822
FACSIMILE (86-10) 6505-6830

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2536-9933
FACSIMILE (852) 2536-9622

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU U.K.
TELEPHONE (44 20) 7367 1600
FACSIMILE (44 20) 7367 1650

PARTNERS RESIDENT IN WASHINGTON

HENK BRANDS DALE M. SARRO
ROBERT E. MONTGOMERY, JR. PHILIP L. SPECTOR
ROBERT P. PARKER STUART S. STEINGOLD

WARREN B. RUDMAN, OF COUNSEL

PARTNERS NOT RESIDENT IN WASHINGTON

NEALE M. ALBERT* ALAN W. KORNBERG
MARK H. ALCOTT RUBEN KRAJEM*
ALLAN J. ARFFA* DANIEL J. KRAMER*
ROBERT A. ATKINS* DAVID K. LAKHDHIR
JOHN F. BAUGHMAN* JOHN E. LANGE*
DANIEL J. BELLER DANIEL J. LEFFELL*
MITCHELL L. BERG* MARTIN LONDON
MARK S. BERGMAN JEFFREY D. MARELL*
BRUCE BIRENBOIM* MARCO V. MASOTTI*
H. CHRISTOPHER BOEHNING* EDWIN S. MAYNARD*
RICHARD S. BORISOFF* TOBY S. MYERSON*
JOHN F. BREGLIO* KEVIN J. O'BRIEN*
RICHARD J. BRONSTEIN* JOHN J. O'NEIL
JEANETTE K. CHAN* KELLEY D. PARKER*
YVONNE Y.F. CHAN* MARC E. PERLMUTTER*
DOUGLAS A. CIFU* MARK F. POMERANTZ*
LEWIS R. CLAYTON LEONARD V. QUIGLEY*
JAY COHEN* VALERIE E. RADWANER*
RUSSELL E. COLWELL* CAREY R. RAMOS
KELLEY A. CORNISH* MICHAEL B. REEDE*
DOUGLAS R. DAVIS* CARL L. REISNER*
JAMES M. DUBIN WALTER RIEMAN*
LESLIE GORDON FAGEN SIDNEY S. ROSDEITCHER
MARC FALCONER RICHARD A. ROSEN*
PETER L. FELCHER* ANDREW N. ROSENBERG*
PETER E. FISCH* STEVEN B. ROSENFELD
ROBERT C. FLEDER* PETER J. ROTHENBERG*
MARTIN FLUMENBAUM RAPHAEL M. RUSSO*
ANDREW J. FOLEY* JEFFREY D. SAFERSTEIN*
HARRIS B. FREIDUS* JEFFREY B. SAMUELS*
MICHAEL E. GERTZMAN* TERRY E. SCHIMEK*
PAUL D. GINSBERG* KENNETH M. SCHNEIDER*
ERIC S. GOLDSTEIN* ROBERT B. SCHUMER*
ERIC GOODISON* JAMES H. SCHWAB*
CHARLES H. GOOGE, JR.* MICHAEL J. SEGAL*
BRUCE A. GUTENPLAN* STEPHEN J. SHIMSHAK*
GAINES GWATHMEY, III* DAVID R. SICULAR*
ALAN S. HALPERIN* MOSES SILVERMAN*
CLAUDIA HAMMERMAN* STEVEN SIMKIN*
ALBERT P. HAND* ROBERT S. SMITH
GERARD E. HARPER MARILYN SOBEL*
ROBERT M. HIRSH* AIDAN SYNNOTT*
STEVEN R. HOWARD* JUDITH R. THOYER*
JOYCE S. HUANG* MARK A. UNDERBERG*
JEH CHARLES JOHNSON MARIA T. VULLO*
MEREDITH J. KANE* THEODORE V. WELLS, JR.
ROBERTA A. KAPLAN* STEVEN L. WOLFRAM*
BRAD S. KARP* LISA YANO*
JOHN C. KENNEDY* JORDAN E. YARETT*
FRED KINMONTH* ALFRED D. YOUNGWOOD

*NOT AN ACTIVE MEMBER OF THE DC BAR.

April 28, 2003

By Hand

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

Re: Application of Compass Systems, Inc. for Authority to Construct an
International Direct Broadcast Satellite System, DA 03-410,
File No. SAT-MSC-200320325-00054, filed March 20, 2002.

SAT- MSC- 2002 0325- 00054

Dear Ms. Dortch:

This letter is written on behalf of SES AMERICOM, Inc. ("SES AMERICOM") to respond to certain statements contained in the Application for Review filed by Compass Systems, Inc. ("Compass") on April 2, 2003 (the "Compass Application for Review") in relation to the above-captioned application for a Direct Broadcast Satellite ("DBS") system employing the 157° and 166° West Longitude ("W.L.") orbital locations.¹ These statements relate to a Petition for Declaratory

¹ This letter is submitted as an informal comment to clarify the record with respect to SES AMERICOM's own petition related to a different orbital slot. It is accordingly not relevant that the period for oppositions to the Compass Application for Review has expired. As discussed herein, SES AMERICOM takes no position on the merits of the Compass Application for Review, and Compass is not

Received

APR 30 2003

Policy Branch
International Bureau

Ruling filed by SES AMERICOM on April 25, 2002 (the “SES AMERICOM Petition”), requesting a determination that it is in the public interest for SES AMERICOM to offer satellite capacity for direct-to-home services in the United States and certain British Overseas Territories from a satellite licensed by the Government of Gibraltar to use the Broadcasting-Satellite Service (“BSS”) frequencies at 105.5° W.L.²

In this letter, SES AMERICOM takes no position on the merits of the Compass Application for Review, and does not comment on how the Commission should award licenses for U.S. orbital slots for the DBS service. This letter is written solely to clarify certain matters regarding SES AMERICOM’s proposal to use the 105.5° W.L. slot.

In its Application for Review, Compass refers several times to the fact that the SES AMERICOM Petition was accepted for filing by the Commission, without calling for competing applications, and without any indication that the Commission would auction the orbital slot that is the subject of that Petition.³ Although Compass’s overall argument is that auctions are not appropriate for the DBS service, particularly when the proposed service is international (as is the case with SES AMERICOM’s proposal, as Compass notes⁴), Compass’s statements could be interpreted as implying that, if auctions are employed for licensing U.S. DBS orbital slots, it would be appropriate for the Commission to auction the BSS frequencies at the 105.5° W.L. orbital slot.

The record should be clear that the 105.5° W.L. orbital slot to be used by SES AMERICOM is not assigned to the United States. Rather, it is a proposed modification to the International Telecommunication Union BSS plans (“BSS Plans”), filed by the United Kingdom on behalf of the Government of Gibraltar. Once entered into the BSS Plans, this orbital location will be assigned to the United Kingdom and through it Gibraltar, and it is Gibraltar that is entitled to decide (as it has) how and to whom to allocate the BSS rights to the slot. The SES AMERICOM Petition does not seek access to a U.S. slot, but rather seeks a Commission determination that it would be in the public interest for SES AMERICOM to offer capacity in the United States from a

prejudiced by the filing of the instant letter. To the extent that leave is necessary for inclusion of this letter in the Commission record of this proceeding, such leave is hereby requested.

² SES AMERICOM, Inc. Petition for Declaratory Ruling To Serve the U.S. Market Using BSS Spectrum from the 105.5° W.L. Orbital Location, File No. SAT-PDR-20020425-00071, filed April 25, 2002.

³ Compass Application for Review at 3, 4, 6-7, 9, 16, and 18.

⁴ *Id.* at 16.

foreign-licensed slot, in accordance with Commission rules and policies relating to access to the U.S. market by foreign-licensed satellites.⁵

Please direct any questions with respect to this filing to the undersigned.

Respectfully Submitted,



Phillip L. Spector
Attorney for
SES AMERICOM, Inc.

cc: Antoinette Cook Bush, Esq.
J.C. Rozendaal, Esq.

⁵ See, e.g., 47 C.F.R. §§ 1.2, 25.137; Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, 12 FCC Rcd 24094, 24099, 24134, 24174 (1997); 15 FCC Rcd 7207, 7212 (1999).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing letter of SES AMERICOM, Inc. was served this 28th day of April, 2003, by first class U.S. mail, postage prepaid, on the following:

Antoinette Cook Bush, Esq.
Compass Systems, Inc.
444 North Capitol Street, N.W., Suite 645
Washington, DC 20001

J.C. Rozendaal, Esq.
Michael K. Kellogg, Esq.
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, DC 20036



Theresa Knadler
Theresa Knadler