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OCT 18 2000

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October 16, 2000

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OCT 16 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, DC 20554

Re: *Petition of Telesat Canada for Inclusion of Anik F-1  
on the Permitted Space Station List  
File No. SAT-PDR-20000420-00083*

Dear Ms. Salas:

In this proceeding, New Skies Satellites N.V. ("New Skies") requested that the Commission defer action on the application by Telesat Canada to add the Anik F-1 satellite to the Permitted Space Station List ("Permitted List") until the satellite complies with the Commission's two-degree spacing policy, and is coordinated with New Skies' satellite to be located at 105° W.L. On October 6, 2000, Telesat submitted a proposed Order that would grant the pending application.<sup>1</sup> New Skies submits this letter to highlight significant flaws in the conclusions urged upon the Commission in that proposed Order.

Specifically, the discussion of technical qualifications in section D.2 of the proposed Order proceeds from a fatally erroneous premise: that coordination with existing U.S. and Mexican satellites demonstrates compliance with the Commission's two-degree spacing requirements. Not surprisingly, Telesat cites no legal support for its creative construction of the two-degree spacing rule. What is worse, the Commission has twice ruled that the completion of coordination does *not* demonstrate such compliance – including in an order issued to Telesat.

In December 1999, the Commission issued an order on Telesat's application to have its Anik E-1 and E-2 satellites – one of which is located at the same 107.3° W.L.

<sup>1</sup> See Letter from Bert W. Rein to Magalie Roman Salas, dated Oct. 6, 2000 (with draft order attached).

Magalie Roman Salas  
October 16, 2000  
Page 2

orbital location where Anik F-1 is to be operated – placed on the Permitted List.<sup>2</sup> In that order, the Commission recognized that the satellites had completed the international spectrum coordination process and been operating for a number of years. But the Commission nonetheless concluded that the technical information in the record did not support the conclusion that Telesat's satellites were two-degree compliant.<sup>3</sup> And earlier this month, the Commission reached the same conclusion with respect to two fully coordinated and operating satellites owned by Satelites Mexicanos, S.A. de C.V. ("SatMex").<sup>4</sup> In short, the Commission has twice ruled that ongoing operations and the completion of the coordination process did *not* mean that the two-degree spacing requirement had been met.

The two-degree spacing policy requires compatibility, in a two-degree spacing environment, with co-coverage, co-frequency operations providing comparable services to earth stations of comparable size.<sup>5</sup> And as the Commission is aware, New Skies has reached a coordination agreement with GE Americom, which operates a C-band satellite at the 103° W.L. orbital location, for just such full-CONUS services from 105° W.L.

If Anik F-1 is allowed to provide full-CONUS service at the inordinately high EIRP level indicated in its application, New Skies will be unable as a technical matter to reach a similar agreement for comparable services even though the satellite is located more than two degrees away. Based on New Skies' calculations as updated due to the GE Americom coordination agreement, a customer using the same earth station antenna size at 105° W.L. would have an available signal to noise plus interference ratio [C/(N+I)] that is 4 dB lower than a customer accessing 107.3° W.L. To compensate for this difference in available C/(N+I) so as to obtain comparable service quality, the customer accessing 105° W.L. would need to increase the size of its earth station by a factor of 1.58. In other words, that customer would have to use a dish over half again larger than one accessing 107.3° W.L. If there were any doubt about the ability of Anik F-1 to operate in a two-degree spacing environment – *i.e.*, not to sterilize valuable orbital locations more than two degrees away – this stark contrast should lay it to rest.

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<sup>2</sup> See *Telesat Canada*, 15 FCC Rcd. 3649 (Int'l Bur. 1999).

<sup>3</sup> *Id.* at 3654.

<sup>4</sup> See *Satelites Mexicanos, S.A. de C.V.*, DA 00-1793 at ¶ 13 (SRD, rel. Oct. 3, 2000).

<sup>5</sup> See Letter from William M. Wiltshire to Magalie Roman Salas, dated June 19, 2000, at p. 2. Telesat has asserted that the Canadian and Mexican governments have reached a coordination agreement that relates to orbital locations, rather than to satellites, and thus contemplates full-CONUS coverage by the satellites of both countries. See Letter from Bert W. Rein to Magalie Roman Salas, dated June 26, 2000, at p. 3. Telesat did not provide a copy of the agreement, but instead attached a "Non-Confidential Notice" that does not give any information on coverage areas, power levels, or any other operational parameters. As a result, neither the Commission nor New Skies has had any opportunity to assess the merits of this claim.

Magalie Roman Salas  
October 16, 2000  
Page 3

While Telesat and SatMex were ultimately permitted to provide service in the United States, it was only on a *non-harmful interference basis* to both current *and future* U.S. and non-U.S. licensed satellite systems that are two-degree compliant.<sup>6</sup> At a minimum, any order granting market access for Anik F-1 must be likewise limited. But unlike the satellites involved in those cases, Anik F-1 has yet to go into commercial service and it will not even be launched for several more months.<sup>7</sup> There is simply no need to “grandfather” its operations, even on a non-interference basis.

The Commission need not – and should not – permit even the restricted market access previously granted to pre-existing satellites. Telesat can operate Anik F-1 in a manner that meets the Commission’s two-degree spacing rule. Specifically, in order to permit comparable services in this region of the orbital arc in accordance with the Commission’s two-degree spacing policy, the level of Anik F-1’s transmissions in a single-carrier per transponder mode must be reduced by 2 dB. However, Telesat simply chooses not to do so.

There is no reason why Telesat should be able to flout the Commission’s rules and be added to the Permitted List. There is no reason why an unlaunched foreign satellite ought to be granted what no new U.S.-licensed satellite would be granted – the right to serve the U.S. market at a power so high that satellites more than two degrees away cannot be coordinated with it. Precisely because Telesat seeks this more favorable treatment, the matter transcends the international coordination process and directly implicates the U.S. licensing process.<sup>8</sup>

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<sup>6</sup> *Telesat*, 15 FCC Rcd. at 3654-55; *SatMex*, DA 00-1793 at ¶¶ 13-14.

<sup>7</sup> The launch of Anik F-1, which has slipped on prior occasions, is currently scheduled for November 7, 2000. *See* [www.lyngsat.com/launches.shtml](http://www.lyngsat.com/launches.shtml). After launch, the satellite will need additional time to reach its orbital location and perform a battery of tests before entering into commercial service.

<sup>8</sup> Thus, the Commission cannot, as Telesat suggests in footnote 27 of its proposed Order, simply leave the matter to be resolved by the Canadian and Netherlands governments.

**HARRIS, WILTSHIRE & GRANNIS**

Magalie Roman Salas  
October 16, 2000  
Page 4

Accordingly, New Skies reiterates its request that the Commission defer action on Telesat's request until it demonstrates that Anik F-1 is two-degree compliant.

Respectfully submitted,

A handwritten signature in blue ink that reads "William M. Wiltshire". The signature is fluid and cursive, with the first name being the most prominent.

William M. Wiltshire  
*Counsel for New Skies Satellites N.V.*

cc: Donald Abelson  
Fern Jarmulnek  
Bert W. Rein (Counsel for Telesat Canada)  
Steven Spaeth  
Cassandra Thomas  
Thomas Tycz