

EX PARTE OR LATE FILED



Int'l Bureau
SEP 15 2004
Front Office

1200 EIGHTEENTH STREET, NW
WASHINGTON, DC 20036
TEL 202.730.1300 FAX 202.730.1301
WWW.HARRISWILTSHIRE.COM
ATTORNEYS AT LAW

September 9, 2004

BY HAND DELIVERY

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

Int'l Bureau
SEP 15 2004
Front Office

RECEIVED

SEP - 9 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
Received

SEP 20 2004

Policy Branch
International Bureau

Re: **Ex Parte Presentation**
Report No. SPB-196; SAT-PDR-20020425-00071

Dear Ms. Dortch:

On September 8, 2004, Romulo Pontual, Susan Eid, and undersigned counsel on behalf of The DIRECTV Group, Inc. ("DIRECTV"), had separate meetings with Sam Feder, Legal Advisor to Commissioner Martin; Jennifer Manner, Senior Counsel to Commissioner Abernathy; Paul Margie, Legal Advisor to Commissioner Copps; Barry Ohlson, Legal Advisor to Commissioner Adelstein; and Sheryl Wilkerson, Legal Advisor to Chairman Powell, to discuss the enclosed materials (which were distributed at the meetings).

In this presentation, DIRECTV discussed the impact that the short-spaced DBS slot proposed by SES Americom would have on DIRECTV's services and subscribers. DIRECTV also summarized its recent study of the interference environment in which European DBS/DTH systems operate, which was undertaken in order to evaluate the claims made in recent *ex parte* filings by SES Americom. As demonstrated in the attached materials, that study shows that the interference levels claimed by SES are grossly overstated.

Sincerely yours,

William M. Wiltshire

Enclosure

No. of Copies rec'd 0+3
List ABCDE

HARRIS, WILTSHIRE & GRANNIS LLP

Marlene H. Dortch
September 9, 2004
Page 2 of 2

cc: Sam Feder
Jennifer Manner
Paul Margie
Barry Ohlson
Sheryl Wilkerson
Phillip Spector (counsel for SES Americom)

Impact of Introducing Short- Spaced DBS Satellites

September 8, 2004



DIRECTV Continues to Enhance MVPD Competition



- DIRECTV is a proven innovator with a large and growing subscriber base
- Over the last six months:
 - DIRECTV has launched local-into-local services in 40 additional markets, and is in the process of launching at least 24 more
 - DIRECTV has ordered four new satellites and revised the design of two others in order to increase its capacity
 - Will create more capability for HD and local-into-local transmissions
 - Represents a significant capital investment
 - DIRECTV has struck deals for the seamless integration of customers formerly served through NRTC and Pegasus
- DIRECTV invested in developing advances in modulation and coding by Hughes Network Systems that provide an increase in spectrum efficiency of 30%, which can be used for additional channels/new services – if it is not needed to overcome new sources of interference

DIRECTV Service Quality



- DIRECTV takes pride in ensuring that its customers receive the best possible service
 - Acquires superior and wide-ranging content
 - Employs high quality video encoding
 - Supplies state-of-the-art consumer equipment
 - Achieves high service availability
 - Provides new services, such as mobile video to aircraft and cars
- With this service comes a responsibility to our 13 million customers to maintain the best possible multi-channel video experience
- Any change to the existing adjacent satellite spacing and power levels can potentially impact the consumer experience, and must be considered with great care

SES Proposes to Introduce New, Short-Spaced DBS Slots



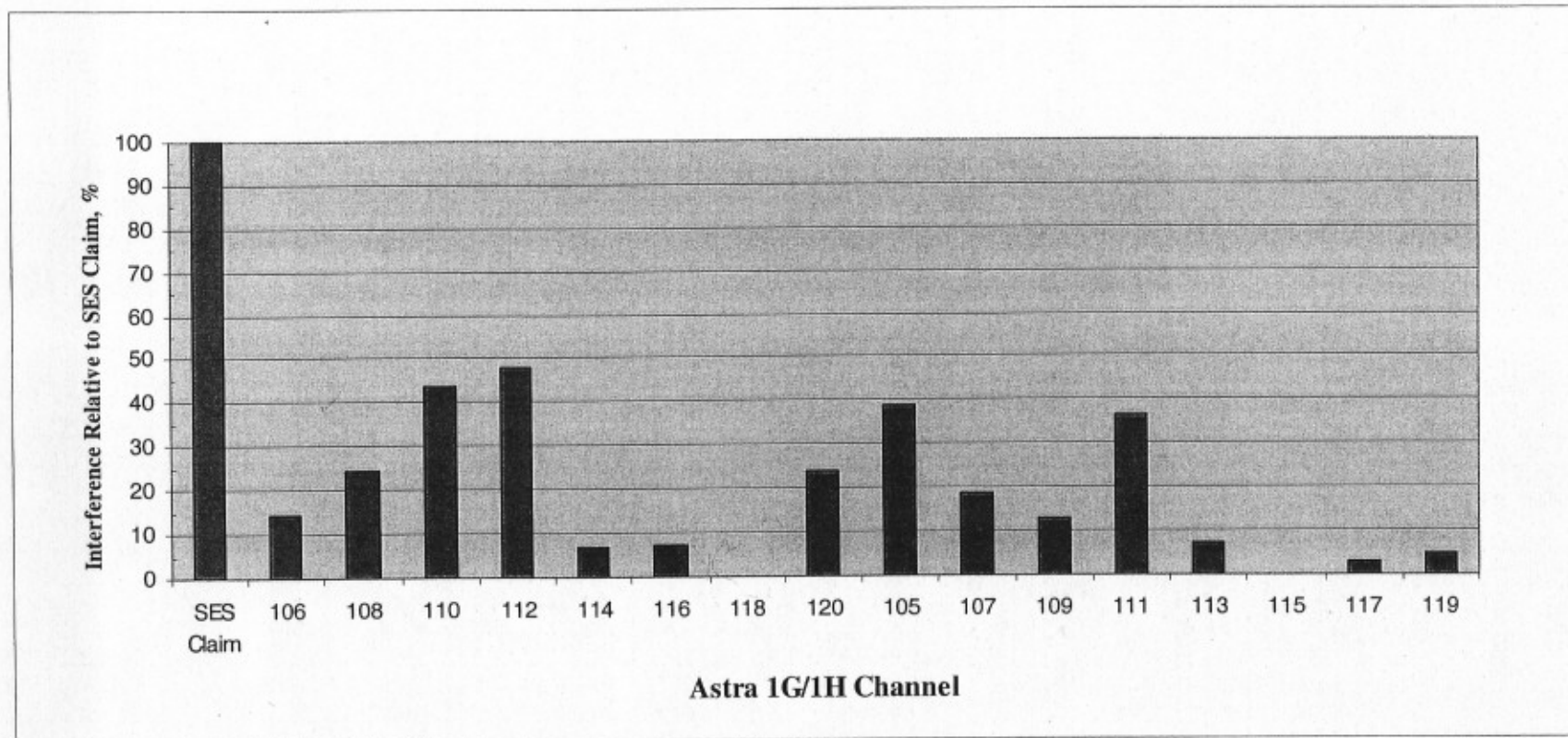
- SES has filed at the ITU for new DBS slots at 105.5° WL and 114.5° WL
 - Spaced 4.5° from existing U.S. DBS assignments at 101° WL, 110° WL, and 119° WL
 - Current DBS operations based on 9° spacing under original international plan
 - Other administrations have also filed for short-spaced slots
- SES seeks to operate at power levels comparable to existing U.S. DBS operators
- SES's ITU filings have international priority over U.S. DBS satellites already in operation
 - *e.g.*, DIRECTV 4S, DIRECTV 7S

SES's European Comparison Is Misleading – and Erroneous



- SES has submitted an analysis of DBS/DTH operations in Europe that purports to show sharing with 2.3° to 4.3° spacing between satellites
- The analysis is misleading
 - No sharing among co-frequency, co-coverage services both operating at high power – which is the U.S. situation for DBS
 - Sharing scenario presented by SES is actually common for U.S. FSS – where 2° spacing and larger receive antennas are the norm
- The analysis is also erroneous
 - Actual interference levels measured by Plenexis in European test are *less than half the levels claimed by SES*
 - In fact, almost all measured C/I levels are more favorable to SES than the protection levels proposed by DIRECTV in its petition for rulemaking

Measured Interference vs. SES Claim



All measurements made by Plenexis in Hameln, Germany, August 3-4, 2004.
Full report of Plenexis tests filed Sept. 7, 2004.

SES's Proposal Would Harm U.S. Consumers



- SES's operations would preclude DIRECTV's introduction of technological advances needed to support additional services
 - Most problematic for spot beams – local-into-local subscribers served by spot beams on DIRECTV 4S and DIRECTV 7S already at risk because of higher priority short-spaced filings at the ITU
 - Satellites and technologies nearing deployment (*e.g.*, additional spot beams, advanced modulation) also would be affected, endangering DIRECTV's plans for increasing HD and local-into-local programming
 - Gives SES effective veto power over advances in U.S. DBS satellites at prime U.S. orbital assignments
- In order simply to maintain current quality of service in the presence of SES's short-spaced satellites, many DIRECTV subscribers would need to replace current dishes with larger ones
 - Current 45 cm U.S. standard supplanted by 60-90 cm European standard
 - Service disruptions and significant inconvenience for consumers
 - Increased costs ultimately will be borne by consumers, further undermining MVPD competition

Far From Increasing Competition, SES Will Harm Competition



- SES claims its proposal is pro-competitive
- However, proposed short-spaced satellites will hobble technological advances by U.S. DBS operators, rendering DBS *less competitive with cable*
 - Because local-into-local service on spot beams would be most at risk, SES's proposal threatens single biggest factor driving DBS subscriber gains
- Moreover, SES has already leased the capacity at 105.5° W.L. to EchoStar – not an avenue for new DBS entry
 - Merely redistributes existing capacity
 - Explains EchoStar's flip-flop on the issue

Conclusions



- DIRECTV is a proven leader in innovation with a large and growing subscriber base
- Introduction of the short-spaced DBS slots proposed by SES would
 - Give SES effective veto power over technological advances and service innovations by U.S. DBS operators
 - Harm consumers
 - Relegate advances in spectrum efficiency to overcoming interference rather than increasing capacity to provide more services
 - Effectively hijack capacity currently available to U.S. operators
- SES's claim that DBS/DTH operations in Europe validate its proposal is misleading and not supported by the evidence
 - The cases in U.S. vs. Europe are not comparable
 - In fact, SES operates with less than half the interference it claims
 - SES's short-spacing proposal would cause much greater levels of interference to DIRECTV than SES currently faces in Europe