

December 26, 2019

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *Space Exploration Holdings, LLC, IBFS File Nos. SAT-LOA-20161115-00118 and SAT-MOD-20181108-00083; WorldVu Satellites Limited, IBFS File No. SAT-LOI-20160428-00041; Telesat Canada, IBFS File No. SAT-PDR-20161115-00108; and Kepler Communications Inc., IBFS File No. SAT-PDR-20161115-00114*

Dear Ms. Dortch,

Space Exploration Holdings, LLC (“SpaceX”) files this letter in response to another letter from WorldVu Satellites Limited (“OneWeb”) reasserting its irreparably flawed views on the criteria for a non-geostationary orbit (“NGSO”) satellite system to be “first to operate” in the Ku band for purposes of Section 25.261(c).¹ OneWeb not only continues its effort to avoid the Commission’s explicit earth station requirement in the default frequency sharing rules but now adds to the list of rules it wishes to avoid. Specifically, OneWeb now claims it need not meet the condition in its authorization that it coordinate with the National Radio Astronomy Observatory (“NRAO”).² Despite its evolving regulatory gymnastics, OneWeb’s goal seems consistent: have the Commission adopt a defective policy that would permanently give non-U.S. operators an unfair advantage over American systems licensed by the Commission. The Commission should reject such blatant effort to rig the American rules against U.S.-based operators.

Once again, SpaceX urges OneWeb to simply complete coordination with the NRAO and the other NGSOs in its processing round rather than continue to dispute what happens if it fails to meet these requirements. As SpaceX has noted repeatedly, the NGSO operators themselves can render the default band-splitting discussion moot by reaching reasonable and functional coordination agreements on how to share spectrum during in-line events. SpaceX has sought to coordinate with all NGSO systems operating in the Ku band and continues to hope that OneWeb will do the same.

¹ See Letter from Brian D. Weimer to Marlene H. Dortch, IBFS File Nos. SAT-LOI-20160428-00041, et al. (Nov. 18, 2019) (“OneWeb Ex Parte”).

² See *id.* at 2.

All Operators—including OneWeb—Must Comply With Commission Rules Before Claiming They are Capable of Operating

In its latest missive, OneWeb claims that SpaceX's position is "mutable," but the fact is that SpaceX has maintained one consistent position: operators must follow the Commission's rules before they can claim to be capable of operating. In contrast, OneWeb continues to add to the list of regulations it hopes to avoid. First, OneWeb tried to claim that it would not have to follow the specific language of the Commission's band-splitting rule that by its own terms "applies to NGSO FSS operation with earth stations with directional antennas anywhere in the world under a Commission license."³ Now, it tries to avoid the Commission's rule and the condition on its own authorization requiring that "operations must be coordinated with the radio astronomy observatories listed in 47 CFR § 2.106, n.US131, to achieve a mutually acceptable agreement regarding the protection of the radio telescope facilities operating in the 10.6-10.7 GHz band."⁴

OneWeb does not really attempt to explain why it does not need to follow the rules or the conditions on its authorization. Instead, it makes the fanciful argument that it is somehow capable of operating even if it cannot legally or technically commence operations in the United States. OneWeb even goes so far as to baldly state—with no real explanation—that the NRAO itself does not understand the rules meant to protect its own radio astronomy operations. OneWeb asserts only that the NRAO was "legally incorrect" when it disclosed to the Commission that OneWeb could not be first to operate because OneWeb—in what appears to be a pattern of behavior—refused to coordinate despite the conditions on its authorization.⁵ Apparently, OneWeb believes it alone can decide when it needs to follow Commission rules.

SpaceX Did Not Concede That OneWeb's Hypothetical Was Correct—SpaceX Just Did Not Believe the Hypothetical Was Germane

OneWeb next makes the nonsensical argument that because SpaceX did not engage with one of OneWeb's hypotheticals, SpaceX somehow conceded the point. As an initial matter, OneWeb likely does not want a lack of engagement on every line in a letter to be the test for conceding arguments, especially considering the number of SpaceX's arguments OneWeb has studiously avoided. For instance, OneWeb has not even attempted to refute SpaceX's overarching point that OneWeb's interpretation of the band-splitting rule seems custom built to give foreign operators a permanent advantage over U.S. operators.

But as for OneWeb's specific hypothetical, SpaceX did not engage because the example is confusing, completely untethered to reality, and did nothing to further

³ 47 C.F.R. 25.261(a). *See also, e.g.*, Letter from Brian D. Weimer to Marlene H. Dortch, IBFS File Nos. SAT-LOI-20160428-00041, et al. (July 9, 2019).

⁴ *WorldVu Satellites Limited*, 32 FCC Rcd. 5366, ¶ 24(b) (2017).

⁵ *See OneWeb Ex Parte* at 2; Comments of the National Radio Astronomy Observatory, IBFS File No. SAT-LOI-20160428-00041, at 1 (Aug. 2, 2019).

OneWeb's argument. OneWeb posits an unbelievable scenario in which two U.S. operators have for some reason decided to operate earth stations overseas before deploying any in the U.S. Yet, this hypothetical has nothing to do with the real world, other than demonstrating once again OneWeb's seeming laser-like focus on leveraging U.S. rules to serve other countries first. In reality, no actual U.S. operator has challenged SpaceX's notice that SpaceX is first to operate. Moreover, OneWeb's theoretical situation is unlikely to ever occur—SpaceX is the only U.S. licensed operator with operating spacecraft and SpaceX's first applications for its ground network were filed in the U.S. Only a non-U.S. system like OneWeb would choose to leverage the U.S. rules to gain advantage in serving foreign customers first.

OneWeb Does Not Dispute That it Failed to Respond for Months at a Time to SpaceX's Attempts to Coordinate

Finally, OneWeb takes umbrage with SpaceX's description of OneWeb's extended periods of non-responsiveness to SpaceX's attempts to coordinate. The simple fact is, just as it apparently did with the NRAO, OneWeb refused for months to engage in meaningful dialogue with SpaceX. OneWeb correctly notes that "representatives of OneWeb and SpaceX had long planned to formally meet to discuss coordination issues."⁶ Yet this planning period was prolonged with no progress towards a final coordination agreement because OneWeb's response to SpaceX's repeated outreach was always the same—silence.

* * *

As explained above, OneWeb continues its efforts to give non-U.S. operators an advantage over American systems to the ultimate detriment of American consumers. And once again, SpaceX urges OneWeb to finally engage in the required coordination with the NRAO, SpaceX, and other NGSO operators, rather than continue to spend its energy on trying to gain an unfair advantage through the regulatory process. Together, we can make sure that consumers are the beneficiaries of true competition and realize the promise of next-generation NGSO systems, rather than become the victims of regulatory gamesmanship.

Sincerely,

/s/ David Goldman

David Goldman
Director of Satellite Policy

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⁶ OneWeb Ex Parte at 4.

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cc: Jose Albuquerque
Stephen Duall