

February 4, 2020

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 yet another letter from Telesat Canada (“Telesat”) 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 This is the thirteenth attempt by non-U.S. operators to read jurisdictional requirements out of the Commission’s rule, thereby giving the non-U.S. operators a permanent spectrum advantage over U.S. operators while serving the United States.

Once again, SpaceX urges Telesat—and all other NGSO operators—to swiftly complete coordination with the other NGSOs in its processing round rather than continue to dispute what happens if they fail 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.

Telesat’s latest letter primarily reasserts its faulty interpretation of the spectrum-sharing rule that ignores the jurisdictional requirements of the rule. This interpretation is debunked by the plain language of the rule, which states it applies only “to NGSO FSS operation with earth stations with directional antennas anywhere in the world under a Commission license.”² Simply put, if an operator does not have an earth station under a

¹ See Letter from Henry Goldberg to Marlene H. Dortch, IBFS File Nos. SAT-LOA-20161115-00118, et al. (Jan. 13, 2020) (“Telesat Ex Parte”).

² 47 C.F.R. § 25.261(a).

Commission license, it cannot claim to be the first to be capable of operating for purposes of Section 25.261.

Under Telesat’s flawed interpretation of this rule, non-U.S. operators would always be capable of operating first because they could launch under their foreign authorizations while U.S. companies must wait for the Commission to conduct another processing round. Telesat does not seriously dispute this point.

Rather, Telesat responds that its advantage is not an issue because “the Commission has processed NGSO applications efficiently.”³ But this point is irrelevant, and SpaceX has never claimed otherwise. In fact, only OneWeb has complained about the speed at which the Commission processes applications.⁴ SpaceX’s point is that regardless of how quickly the Commission acts, Telesat’s interpretation will always give non-U.S. operators an advantage because they can launch under a foreign authorization issued outside of and prior to any U.S. processing round. Telesat’s position is nonsensical—an operator could claim to be first to operate in the United States based on satellites that were launched before it even applied to operate in United States.

Telesat contends—with no support—that this point is somehow “divorced from reality.”⁵ To the contrary, this *is* reality. Kepler is explicitly claiming it is first to be capable of operation based on a launch that took place 10 months before it received its authorization to operate in the U.S.⁶ Even Telesat itself launched its satellites months before SpaceX received its authorization.⁷

* * *

Once again, SpaceX urges Telesat to quickly engage in and complete coordination. Together, we can make sure that consumers enjoy the benefits of true competition and realize the promise of next-generation NGSO systems, rather than becoming the victims of regulatory gamesmanship.

³ Telesat Ex Parte at 3.

⁴ See, e.g., Letter from Brian D. Weimer to Marlene H. Dortch, IBFS File Nos. SAT-MOD-20180319-00022, et al. (Jan. 24, 2020).

⁵ Telesat Ex Parte at 3.

⁶ See Letter from Nickolaus G. Spina to Marlene H. Dortch, IBFS File No. SAT-LOI-20160428-00041, at 1 (May 13, 2019) (claiming first launch on January 19, 2018).

⁷ See Letter from Henry Goldberg to Marlene H. Dortch, IBFS File No. SAT-PDR-20161115-00108, at 2 (July 26, 2019) (claiming first launch on January 12, 2018).

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Sincerely,

/s/ David Goldman

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Director of Satellite Policy

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The SpaceX logo is located in the bottom right corner of the page. It features the word "SPACEX" in a bold, blue, sans-serif font. To the right of the text is a stylized, grey, curved line that represents a rocket's trajectory or a wing, extending from the end of the word and curving upwards and to the right.