



January 7, 2020

BY ELECTRONIC FILING

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

RE: *Ex Parte* Letter
IBFS File Nos. SAT-PDR-20180910-00069 and SAT-PDR-20190328-00020

Dear Ms. Dortch,

Hiber Inc. (“Hiber”) hereby responds to the *ex parte* letter submitted by Myriota Pty Ltd. (“Myriota”) on December 20, 2019 in the above-referenced proceedings.¹ Myriota’s letter is a self-serving, transparent attempt to use the regulatory process to delay approval of Hiber’s request for U.S. market access. Because Myriota’s allegations have no basis in fact or law and Myriota has missed the comment deadline to raise its alleged concerns, Myriota’s letter should be disregarded.

First, Myriota omits any mention of the coordination activity between the companies over the past two years, leaving the misleading impression that Hiber has simply ignored its international coordination obligations. In fact, the opposite is true. To begin, between February 12th and 23rd, 2018, Hiber initiated correspondence in writing and on the telephone with Myriota to effect coordination, only to be told that “if there was overlap between Myriota’s frequencies and those that [Hiber] is pursuing then further discussion will be required. However, at this point in time [Myriota is] maintaining confidentiality on our use of spectrum.” Hiber, at the time, was keen to pursue coordination of the 399.9-400.05 MHz band, as a result of the then-forthcoming proceedings at the WRC-19.

Furthermore, between August and September 2019, the CTO of Myriota and the Regulatory Manager of Hiber engaged in correspondence that culminated in an informal meeting on September 10th in London, where the parties collaboratively and productively exchanged satellite system information. And finally, during WRC-19 in Sharm el-Sheikh, representatives of the two companies worked side by side daily for three weeks to address international matters with respect to the use of the 399.9-400.05 MHz band. Indeed, in many instances, the FCC itself was present and a party to those same discussions. These facts belie Myriota’s misleading suggestion that there has been no coordination between the two companies.

Second, as Myriota notes in its own market access request, it has “the ability to share the entire 150 kHz range with other NVNG systems also operating in the 399.9-400.05 MHz

¹ See Letter from William M. Wiltshire, Counsel to Myriota, to Marlene H. Dortch, IBFS File Nos. SAT-PDR-20180910-00069 and SAT-PDR-20190328-00020 (Dec. 20, 2019) (“Myriota Letter”).



band, as well as the ability to operate in any portion of the band to which it is assigned.”² Taking Myriota at its word, coordination between Hiber and Myriota will be a straightforward matter and thus provides no basis for delaying grant of Hiber’s market access request.

Third, the Commission’s rules do not require a sharing agreement to be in place before participants in a processing round are granted spectrum rights, as evidenced most recently by the Commission’s grant of authorizations to participants in the Ka-band and V-band processing rounds.³ Indeed, all authorizations are conditioned on the outcome of ITU coordination and the Commission has consistently made clear that it “is not responsible for the success or failure of the required international coordination.”⁴

Fourth, as a procedural matter, Myriota’s alleged concerns are untimely. The window for comments on the Hiber market access request closed approximately nine months ago.⁵

For all the above reasons, Hiber requests that the Myriota Letter be disregarded. Further, because Hiber’s market access request has been pending for more than fifteen months and the proposed service would provide beneficial Internet-of-Things services to U.S. customers, especially those in rural and remote areas, Hiber urges that its request be granted expeditiously.⁶

Please contact me with any questions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Bruce Henoeh".

Bruce Henoeh
General Counsel

cc: Jose Albuquerque
Stephen Duall

² Myriota Pty Ltd., Petition for Declaratory Ruling Granting Access to the U.S. Market for Non-Voice, Non-Geostationary Satellite System, SAT-PDR-20190328-00020, at 11 (filed Mar. 28, 2019).

³ See, e.g., *WorldVu Satellites Limited Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, Order and Declaratory Ruling, 32 FCC Rcd 5366 (2017); *Telesat Canada Petition for Declaratory Ruling to Grant Access to the U.S. Market for Telesat’s NGSO Constellation*, Order and Declaratory Ruling, 32 FCC Rcd 9663 (2017).

⁴ *Amendment of the Commission’s Space Station Licensing Rules and Policies; Mitigation of Orbital Debris*, First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54, 18 FCC Rcd 10760, ¶ 295 (2003); see also *Star One, S.A. Petition for Declaratory Ruling to be Added to the Permitted List*, Order, 25 FCC Rcd 14338, ¶ 12 (2010) (“Just as a space station operator licensed by the United States takes its authorization subject to the risk of the ITU coordination process, so too do non-U.S.-licensed space station operators granted access to the market in the United States.”).

⁵ Public Notice, Report No. SAT-01379, IBFS File No. SAT-PDR-20180910-00069 (March 22, 2019).

⁶ Letter from Tony Lin, Counsel to Hiber, to Marlene H. Dortch, Secretary, FCC, SAT-PDR-20180910-00069 (filed Dec. 11, 2019).

CERTIFICATE OF SERVICE

I, Bruce Henoch, hereby certify that, on January 7, 2020, a true and correct copy of the foregoing letter was sent by United States mail, first-class postage prepaid, to the following:

William M. Wiltshire
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Counsel to Myriota Pty Ltd.

/s/ Bruce Henoch

Bruce Henoch