

November 29, 2005

Via Hand Delivery

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

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Federal Communications Commission
Office of Secretary

Re: *IB Dockets No. 05-220, 05-221*
File No. SAT-PPL-20050926-00184

Dear Ms. Dortch:

In its November 16, 2005 *ex parte* filing, Inmarsat makes yet another attempt to obstruct the emergence of robust competition in the mobile satellite service ("MSS") market.¹ As described below, this latest attempt, like the others, is without merit. The Commission should not allow Inmarsat's seemingly endless arsenal of delaying tactics to block TMI/TerreStar's access to the 2 x 10 MHz of spectrum necessary to deliver a highly sophisticated but affordable MSS/ATC service throughout the United States.

First, in claiming that a third 2 GHz provider is a competitive necessity, Inmarsat ignores the salient conclusion of the economic analysis of Dr. Bruce M. Owen: to wit, the 2 GHz MSS frequency band does not define the MSS market.² Inmarsat thus refers to the two 2 GHz providers as a "duopoly" nine times in its letter, as if its repeated incantation might make it so.³ Yet, even if one ignores the evidence that TMI/TerreStar's service will likely compete with terrestrial wireless services,⁴ substantial competition will exist between two robust 2 GHz

¹ See Letter from John P. Janka, Counsel to Inmarsat to Marlene H. Dortch, Secretary, FCC (Nov. 16, 2005) ("Inmarsat Letter").

² See Letter from Jonathan D. Blake, Counsel to TerreStar to Marlene H. Dortch, Secretary, FCC (Oct. 17, 2005), attaching Bruce M. Owen, Competition and Licensing in the 2 GHz Band, at 2-12 (Oct. 14, 2005) ("Owen Report").

³ See, e.g., Inmarsat Letter at 1 (opposing "licensing TerreStar/TMI and ICO to duopoly at 2 GHz").

⁴ Indeed, if the 2 GHz band were an isolated market, as Inmarsat claims, terrestrial wireless carriers would not have spent years attempting to derail the assignment of spectrum for the 2 GHz MSS/ATC service. See, e.g., Letter from Dustin L. Ashton, CTIA to Magalie Roman Salas, Secretary, FCC, CC Docket No. 99-81 (filed June 11, 2001) (reiterating request that the Commission initiate rulemaking to sharply reduce 2 GHz MSS spectrum allocation and opposing efficient re-use of MSS spectrum for ancillary terrestrial services).

MSS/ATC providers and other MSS providers in the Big LEO and L bands.⁵ Inmarsat's argument that the 2 GHz band is a "greenfield" in comparison to the L-band speaks more to its own inefficient use of 28 MHz of spectrum in the L-band than to any unusual characteristic of the 2 GHz spectrum.

Second, Inmarsat falsely asserts that TMI/TerreStar does not need additional spectrum because it has "raised substantial capital and is spending billions of dollars based on [a] 2 x 4 MHz MSS authorization."⁶ In fact, consistent with its entrepreneurial philosophy, TMI/TerreStar has proceeded with a robust system design *despite* regulatory uncertainty. In making this decision, it has relied on the Commission's announced intention to distribute surrendered spectrum *pro rata* among the remaining two licensees upon a showing that such redistribution will lead to "extraordinarily large, cognizable, and non-speculative efficiencies."⁷ TMI/TerreStar's investors thus have confidence that the Commission will assign sufficient spectrum to enable TMI/TerreStar to deploy a broadband, consumer-oriented mobile telecommunications service, rather than a traditional niche mobile satellite service. They are, however, taking that risk; if the Commission does not do so, that investment in innovation will have been in vain and the public will be deprived the benefits of a ubiquitous, fully competitive mobile telecommunications system.

Finally, Inmarsat seeks to read a 2 GHz and L-band consolidation into a plan announced by Motient Corp. to reorganize ownership of MSV, an L-band provider, and TerreStar.⁸ MSV and TerreStar are today independently managed and operated companies and will continue to be so after the transaction contemplated in that letter. Moreover, Inmarsat conveniently ignores in the same announcement the likelihood that TerreStar will subsequently be spun off from Motient. In any event, this corporate reorganization does not alter the fundamental choice facing the Commission in this proceeding: distribute surrendered 2 GHz spectrum to the entrepreneurial 2 GHz MSS entrants ready and willing to put the spectrum rapidly into use for the benefit of consumers, first responders and homeland security or obstruct the development of such a service for the benefit of those who would compete with it.

⁵ See Owen Report at 3-8.

⁶ Inmarsat Letter at 3.

⁷ *Amendment of the Commission's Space Station Licensing Rules*, IB Docket 02-34, 18 FCC Rcd. 10760, 10774 ¶ 64 (2003). TMI/TerreStar has exhaustively demonstrated that such efficiencies would result from assignment of 2 x 10 MHz to its next-generation MSS/ATC service. See, e.g., Comments of TMI/TerreStar, IB Docket No. 05-221 (filed July 29, 2005) (documenting benefits of a 2 x 10 MHz assignment, including the provision of a uniquely valuable communications asset to public safety and homeland security users, delivery of reliable broadband services to rural America, injection of competition into the market for wireless services, and expansion of spectrum reuse, innovation and efficiency to an unprecedented level).

⁸ See Inmarsat Letter at 2. Inmarsat fails to mention that if it were granted access to the 2 GHz band, it would hold over 34 MHz of spectrum in the 2 GHz and L-bands.

