

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Telesat Canada) File No. _____
)
Petition for Declaratory Ruling to Add)
The Ka-band Payload of ANIK F3)
to the Permitted Space Station List)

PETITION FOR DECLARATORY RULING

I. INTRODUCTION

Telesat Canada (“Telesat”) respectfully petitions the Commission, pursuant to Section 25.137 of the Commission’s rules, the *DISCO II Reconsideration Order*,¹ and the Commission’s extension of the policies enunciated therein to make them applicable to Ka-band space station operations,² for a declaratory ruling adding the Ka-band payload of Telesat’s ANIK F3 satellite to the Permitted Space Station List (“Permitted List”).

ANIK F3 has been constructed, launched, and placed into operation at 118.7° West Longitude.³ The C- and Ku-band payloads of ANIK F3 are already on the Permitted List.⁴

¹ *In re Amendment of the Commission’s Regulatory Practices to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, First Order on Reconsideration, 15 FCC Rcd. 7207 (1999) (“*DISCO II Reconsideration Order*”).

² *In the Matter of 2006 Biennial Regulatory Review – Revision of Part 25; Establishment of Permitted List Procedure for Ka-band Space Stations*, 25 FCC Rcd 1542 (2010) (“*Ka-band Permitted List Order*”).

³ Accordingly, no bond is required to be posted under 47 C.F.R. § 25.137(d)(4).

⁴ *In the Matter of TELESAT CANADA; Petition for Declaratory Ruling for Inclusion of ANIK F3 on the Permitted Space Station List*, 22 FCC Rcd 588 (2007) (“*ANIK F3 C/Ku-Band Order*”).

Grant of Telesat's request to add the Ka-band payload of ANIK F3 to the Permitted List will provide authority for all earth stations in the United States that the Commission has licensed on an "ALSAT" basis to communicate with the Ka-band payload of ANIK F3 without further Commission action so long as all communications fall within the same technical parameters and conditions established in the earth stations' original licenses. The request is limited to services covered by the WTO Basic Telecommunications Agreement; Telesat does not seek authority to provide direct-to-home, Direct Broadcast Satellite, or Digital Audio Radio Service services in the United States.

Grant of Telesat's petition for declaratory ruling is in the public interest. A grant will bring the benefits of competition associated with using a Ka-band satellite at 118.7° W.L. to serve the United States and provide valuable service to the U.S. public. Telesat demonstrates below that the Ka-band payload of ANIK F3 also satisfies all of the requirements to be added to the Permitted List.

II. THE KA-BAND PAYLOAD OF ANIK F3 SATISFIES THE REQUIREMENTS FOR ENTRY ON THE PERMITTED SPACE STATION LIST.

In the *DISCO II Reconsideration Order*, the Commission held that a non-U.S. licensed satellite may be included on the Permitted Space Station List if the Commission finds that operation of the satellite complies with Sections 25.114 and 25.137 of the Commission's rules and raises no other public interest concerns.⁵ This policy, with a

⁵ See *DISCO II Reconsideration Order*, 15 FCC Rcd at 7214 ("U.S. earth stations with ALSAT licenses should be permitted to communicate with any non-U.S. satellite just as easily as they communicate with any

minor qualification that is addressed below, has been extended by the Commission to Ka-band satellite payloads.⁶ Section 25.114 establishes the technical and legal qualification requirements for space station applicants. Section 25.137 sets forth entry requirements for satellites licensed outside the United States. And under the “other public interest concerns” part of the *DISCO II* standard, the Commission considers spectrum availability and evaluates whether there are any national security, law enforcement, foreign policy, or trade concerns. The proposed operation of the Ka-band payload of ANIK F3 to serve the United States satisfies all of these tests.

A. Technical Qualifications; Planned Use

The Ka-band payload of ANIK F3 has two beams, one spot beam and one beam providing wide beam coverage, with the transponders capable of operating in either beam. The Ka-band payload is planned for use in the provision of broadband internet services, distance learning, and emergency services. The attached technical exhibit and the Schedule S that is filed with this petition establish that the proposed operation of the Ka-band payload of ANIK F3 is consistent with the Commission’s technical requirements, including its requirements for two-degree satellite spacing compatibility.

B. Legal Qualifications

The information provided in the FCC Form 312 that accompanies this petition establishes Telesat’s legal qualifications.

U.S.-licensed satellite, provided that those communications do not cause harmful interference to or require protection from adjacent satellite operations, and otherwise comply with DISCO II.”).

⁶ See Ka-Band Permitted List Order, ¶¶ 12-13.

C. Section 25.137 Entry Requirements

The *DISCO II Order*, as implemented in Section 25.137(a) of the Commission's rules, establishes a presumption that granting applications to provide service in the United States via satellites licensed by countries that are members of the World Trade Organization ("WTO") will enhance competition and therefore is in the public interest.⁷ ANIK F3 is licensed by Canada, which is a WTO member country. Accordingly, this petition satisfies the requirements of Section 25.137 and there is a presumption that granting U.S. market entry to the Ka-band payload of ANIK F3 is in the public interest.

D. Other Public Interest Factors

The Commission considers under the "other public interest factors" element of *DISCO II* whether grant of an application would have an impact on spectrum availability and whether a grant would implicate national security, law enforcement, foreign policy, or trade concerns.⁸ These aspects of *DISCO II* also are satisfied.

ANIK F3 will operate at 118.7° W.L. The satellite, including its Ka-band payload, has been coordinated by Telesat and has been notified with the ITU-R by Canada. Accordingly, the Ka-band spectrum to be used by ANIK F3 at 118.7° W.L. is unavailable to U.S. applicants, and adding the Ka-band payload of the satellite to the Permitted List will have no impact on spectrum availability. Currently, there is neither any authorized nor any proposed geostationary satellite within two degrees of ANIK F3 in the Ka-band

⁷ See *In re Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, Report and Order, 12 FCC Rcd. 24094, 24112 (1997) ("*DISCO II Order*"). See also ANIK F3 C/Ku-band Order, at ¶ 6. The presumption applies only to satellite services that are covered under the WTO's Basic Telecommunications Agreement. As discussed in Section I, above, Telesat Canada's petition is limited to such services.

⁸ See *DISCO II Order*, ¶¶ 146-182.

frequencies of ANIK F3. The compatibility of the ANIK F3 satellite network with potential future satellites two degrees away from ANIK F3 is demonstrated in the attached technical exhibit. In addition, pursuant to the requirement of the Ka-band Permitted List Order,⁹ Telesat hereby requests that the Commission initiate coordination discussions with the National Telecommunications and Information Administration.

The Commission previously determined that operation of the C and Ku-band payloads of ANIK F3 at 118.7° W.L. to serve the United States raises no national security, law enforcement, foreign policy, or trade concerns.¹⁰ This finding applies with equal force to the Ka-band payload of ANIK F3.

⁹ Ka-band Permitted List Order, ¶14.

¹⁰ ANIK F3 C/Ku-Band Order, at ¶ 17.

CONCLUSION

In view of the foregoing, grant of Telesat's application is in the public interest, and it is respectfully requested that the Commission grant the application expeditiously.

Respectfully submitted,

Telesat Canada

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