

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Intelsat License LLC)	File Nos.
)	
Application to Modify Authorization for)	SAT-MOD-20140829-00097
Intelsat 5)	SAT-STA-20140502-00047
)	
)	
Intelsat License LLC)	Call Sign: S2704
)	
Application for Space Station Temporary)	
Authority)	
)	
)	
)	
)	

REPLY OF ABS GLOBAL, LTD.

ABS Global, Ltd. (“ABS”), files this reply to address certain matters raised by Intelsat License LLC (“Intelsat”) in its Response to Comments filed previously by ABS with respect to the above-referenced Intelsat applications (the “Applications”). The Applications – one for Special Temporary Authority (“STA”), the other for permanent authority – propose to relocate the Intelsat 5 satellite from 50.15° E.L. to 157.0° E.L. and to operate the satellite at the latter orbital position.¹

The Intelsat Response is premised almost entirely on what it claims to be a “very determinative fact” relating to the relative filing priority of the United States at 157° E.L. and Papua New Guinea (“PNG”) at 159° E.L.² At another point

¹ ABS does not object to the proposed modification of the proceeding’s *ex parte* status to “permit-but-disclose.” See Letter to Marlene Dortch, FCC, from Susan Crandall, Intelsat, September 25, 2014. This letter also purports to “clarify” certain of the operating parameters for the Intelsat 5 satellite, if it is authorized to operate at the 157° E.L. orbital location. The slightly modified power limits proposed unilaterally by Intelsat do nothing to resolve the concerns that ABS continues to have about Intelsat’s C-band operations at this orbital location and the substantial degradation that such operations would create for ABS’ operations via the ABS-6 satellite at the adjacent orbital location of 159° E.L.

² Intelsat Response at 2.

Intelsat claims to have a “superior ITU filing.”³ Intelsat also seeks to take refuge in the claim that the incoming satellite, Intelsat 5, “will use the same operating parameters” as, and is “technically equivalent to,” the satellite it is replacing, Intelsat 706.⁴ And Intelsat makes repeated references to the fact, which it apparently believes is important, that ABS is “a non-U.S.-licensed satellite operator.”⁵ In making these points, Intelsat has misunderstood both the facts and the law.

As a factual matter, while the U.S. filings with the International Telecommunications Union (“ITU”) at the 157° E.L. position pre-date the PNG filings at the 159° E.L. orbital position in some frequency bands, in other frequency bands they do not. Moreover, the validity of U.S. filings associated with Intelsat satellites at this orbital location was questioned in 2011 by the ITU’s Radio Bureau, which decided that the frequency assignments associated with the U.S. filings at the position should be suppressed because the orbital position was not being used by Intelsat. Although the ITU’s Radio Regulations Board later decided not to take away the slot from the United States (at least at that time), it should be noted that, since the reinstatement of the U.S. filings at 157°E.L in May 2012, Intelsat has failed to bring into use a number of the frequency bands specified in those filings

As for the Intelsat claim about “the same operating parameters,” that is a correct statement only if one focuses narrowly on EIRP levels and ignores another key parameter, coverage area. Intelsat is surely aware that the Intelsat 5 coverage beams are different than those of Intelsat 706.

Intelsat’s “technical equivalence” argument is unavailing in another respect. When Intelsat filed its FCC application to place the Intelsat 706 satellite at 157° E.L., it based its link budget analysis on the existence of a hypothetical satellite at 159° E.L., because there was no

³ *Id.* at 3.

⁴ *Id.* at 2, 3.

⁵ *Id.* at 1. *See id.* at 3, 5. Intelsat itself, of course, is a non-U.S. company, with its headquarters in Luxembourg.

operating spacecraft at that location at that time.⁶ It is manifestly inappropriate for Intelsat to attempt to bootstrap the analysis done then – in a hypothetical satellite context – into an argument for why it should be permitted now – in the context of an actual, adjacent, operating satellite at 159° (ABS-6) – to continue to operate using the same parameters when it seeks to place another satellite at the 157° location.

On a related factual point, Intelsat asserts that “its current customers [would] receive degraded services” if it were “to accommodate the future plans of ABS.”⁷ However, when the link analysis that Intelsat provided to the Commission in 2012 for Intelsat 706 is compared against that contained in the current Intelsat 5 filing, it is readily apparent that Intelsat had budgeted a higher level of interference into Intelsat 706 from the 159° E.L. orbital location than it has budgeted for Intelsat 5. Specifically, in the Intelsat 706 filing, Intelsat had assumed a downlink interfering EIRP density of -32 dBW/Hz, whereas in the Intelsat 5 application it has budgeted an EIRP density level of -42 dBW/Hz – a reduction of 10 dB.⁸ Clearly, Intelsat is able to maintain services to its customers in the presence of a much higher level of interference from the 159° E.L. orbital than it is now claiming it can accept when Intelsat 5 replaces Intelsat 706.

As a legal matter, as ABS pointed out in its Comments, Intelsat’s interference analysis in its space station application fails to meet the requirement of Section 25.140(a) of the Commission’s Rules, which states that Intelsat must “demonstrate the compatibility of [its] proposed system with respect to authorized space stations within 2 degrees of any proposed satellite point of communication.”⁹ Nothing in that rule imposes any test relating to ITU date priority or whether the other relevant “space stations” are U.S.-licensed. While Intelsat apparently thinks it can avoid the rule by claiming that it is “replacing technically equivalent

⁶ See Intelsat Application, File No. SAT-MOD-20121026-00188 (filed Oct. 26, 2012)(the “Intelsat 706 Application”), Engineering Statement, Sec. 6.0.

⁷ Intelsat Response at 3.

⁸ See Intelsat 706 Application, Ex. 5; Intelsat Application, File No. SAT-MOD-20140829-00097 (filed Aug. 29, 2014), Ex. 4.

⁹ 47 C.F.R. § 25.140(a).

satellites,”¹⁰ Section 25.140(a) carves out no such exception, and instead is a rule of general applicability whenever an applicant is seeking (as Intelsat is seeking) a license for a geostationary space station in the Fixed-Satellite Service.

Intelsat (without explanation or any specific citation) points to Article 9 of the ITU’s Radio Regulations as somehow bolstering its argument that the PNG “junior” filing is to be treated differently than a more senior filing for coordination purposes.¹¹ However, under the ITU’s Rules of Procedure as they relate to Article 9, the filing priority date is for administrative convenience and is not meant to confer any additional rights on the earlier filer. Specifically, the ITU’s procedural rules state that “the intent of Nos. 9.6 (9.7 to 9.21), 9.27 and Appendix 5 is to identify to which administration a request for coordination is to be addressed, and not to state an order of priorities for rights to a particular orbital position.”¹² These Rules of Procedure also are clear that “the coordination process is a two way process,” and that “no administration obtains any particular priority as a result of being the first to start either the advance publication phase . . . or the request for coordination procedure”¹³

Intelsat is similarly misleading in its attempt to brush aside the Yahsat precedent, where two years ago Intelsat was required to give the International Bureau weekly reports about the status of its coordination negotiations with a non-U.S. operator using a non-U.S. orbital slot.¹⁴ It may be, as Intelsat claims, that the “filing used by Yahsat had ITU priority,”¹⁵ but the Bureau’s discussion in its order instructing Intelsat to coordinate with Yahsat did not mention ITU priority at all.¹⁶ The Bureau instead focused on Yahsat’s claims that Intelsat’s operations from the

¹⁰ Intelsat Response at 3-4. As discussed above, this Intelsat claim is not fully accurate.

¹¹ *Id.* at 3.

¹² ITU Rules of Procedure for No. 9.6 of the ITU Radio Regulations (emphasis added).

¹³ *Id.*

¹⁴ See ABS Comments at 5.

¹⁵ Intelsat Response at 3.

¹⁶ See International Bureau Attachment to Grant, Intelsat Request for Further Extension of Special Temporary Authority for Galaxy 26, File No. SAT-STA-20120125-00012 (stamp grant, Feb. 3, 2012).

relevant U.S.-filed orbital slot “will result in harmful interference to space stations operating, or soon-to-be operating . . . at nearby orbital locations.”¹⁷

The Bureau’s mention of “soon-to-be operating” satellites is instructive, because Intelsat appears to believe that it does not need to take into consideration ABS’ “future plans” for “new services” on an ABS satellite currently in orbit.¹⁸ In the Yahsat case, moreover, the services of concern on the then-operating satellite were not current services, but rather ones that Yahsat said it “plan[ned] to provide” or “intend[ed] to provide” in the future.¹⁹

Intelsat’s claim to have “entered into good faith coordination discussions with ABS”²⁰ is belied by its own apparent view that it can rely on a “superior” filing and not actually make any concessions to allow sharing of the radiofrequency spectrum – the key objective of the ITU’s Radio Regulations – among adjacent operators. And its protestations of “good faith” conflict here with its unfortunate attempt to cast aspersions on ABS as acting “improperly”²¹ when ABS calls to the Commission’s attention the fact that Intelsat has thus far in this matter acted inconsistently with the FCC’s Rules, with International Bureau precedent, and with the ITU’s Radio Regulations.²²

CONCLUSION

Intelsat’s Response changes nothing with respect to the serious concerns raised by ABS in its Comments on the Applications. ABS continues to urge the Commission not to grant either application to the extent that each is requesting authority for Intelsat to engage in non-TT&C transmissions in the C-band (and specifically, in the frequency bands 5925-6025

¹⁷ *Id.* at 1 n.1.

¹⁸ Intelsat Response at 2, 3.

¹⁹ Yahsat Comments at 2, 5, File No. SAT-MOD-20110420-00073 (filed June 6, 2011).

²⁰ Intelsat Response at 3. *See also id.* at 2.

²¹ *Id.* at 3.

²² Intelsat’s statement that it is working in good faith to reach a mutually satisfactory coordination with ABS at the 157° E.L. and 159° E.L. orbital locations may further be questioned because of its insistence on maintaining operational constraints on ABS at 159° E.L. in non-overlapping frequency bands (Ku-band and extended C-band). As ABS has previously pointed out, Intelsat could show good faith by agreeing with ABS on the non-applicability of previously discussed operator-to-operator constraints on operations in these latter two bands. *See* ABS Comments at 2 n.2.

MHz and 3700-4000 MHz) over Intelsat 5 from the orbital location of 157° E.L., until such time as ABS and Intelsat jointly inform the Commission that they have reached a mutually satisfactory coordination agreement involving the Intelsat 5 and ABS-6 satellites.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Arlene Kahng, hereby certify that on this 2nd day of October, 2014, I caused to be served a true copy of the foregoing “Comments of ABS Global, Ltd.,” by electronic mail upon the following:

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