KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.
SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215
(202) 326-7900
FACSIMILE:
(202) 326-7999

August 6, 2014

BY HAND DELIVERY AND EMAIL

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

Re: IBFS File Nos. SAT-MOD-20130227-00026, SAT-AMD-20130429-00063, SAT-AMD-20130613-00083, SAT-MOD-20140623-00074, SAT-STA-20130510-00067, SAT-STA-20130716-00093, SAT-STA-20130912-00115, SAT-STA-20131113-00131, SAT-STA-20140113-00004, SAT-STA-20140314-00031, SAT-STA-20140513-00050, SAT-STA-20140711-00085
Call Sign S2232

Dear Ms. Dortch:

Spectrum Five, LLC ("Spectrum Five") submits this letter summarizing a meeting on August 4 regarding the above-referenced modification and special temporary authorization ("STA") renewal applications to operate the EchoStar 6 at 96.2° W.L. and to extend the satellite license term. Present at the meeting were Diane Cornell, Special Counsel to Chairman Wheeler; David Wilson, CEO Spectrum Five; Thomas Sharon, COO Spectrum Five; John Thorne, Scott Angstreich, and Dan Dorris, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C., counsel for Spectrum Five.

At the meeting, Spectrum Five discussed the material in Exhibit 1 attached to this letter. Spectrum Five also described the advantages of allowing its in-development satellite to use the 12/17 GHz Ku Band and 17/24 GHz Reverse Band frequency ranges at the 95.15° W.L. orbital location. By combining these frequency ranges, Spectrum Five would be able to provide greater bandwidth from this single orbital location than legacy carriers are capable of providing from multiple orbital slots.

Moreover, the Bureau is prohibited from authorizing EchoStar 6 for FSS and MSS operations rather than DBS operations, as the Bureau has contemplated in the public notice for

the modification request.[1] According to the Commission's Table of Frequency Allocations, FSS and MSS operations are allowed in the 12.2-12.7 GHz band for Region 2 only for "non-geostationary systems" (5.487A) and for "stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan," provided the FSS and MSS operations "do not cause more interference, or require more protection from interference, than the broadcasting-satellite service transmissions operating in conformity with the Plan" (5.492).[2] EchoStar 6 fits neither exception. It is a geostationary satellite, and the Bureau has already found that the operations for EchoStar 6 that it authorized in the STA and is asked to authorize in the modification filing — with the boresight in the Atlantic Ocean in an attempt to avoid the DBS freeze — are "not . . . pursuant to a filing under the BSS Plan," and therefore, will cause more interference than any authorized BSS operations.[3] Nor can the Bureau grant the modification request for DBS operations, even aside from the DBS freeze. "DBS operations must be in accordance with the" Region 2 BSS Plan,[4] and there is no Region 2 BSS filing that matches the operations proposed by EchoStar in its modification request.[5]

[1] FCC, Public Notice, Report No. SAT-00946 (May 3, 2013) (accepting the modification filing "for purposes of considering whether authorization of fixed satellite and mobile satellite services, operating on an unprotected and non-harmful interference basis").

[2] *See* 47 C.F.R. § 2.106; *see also* FCC Online Table of Frequency Allocations (July 25, 2014), *available at* http://transition.fcc.gov/oet/spectrum/table/fcctable.pdf.

[3] *See* Order and Authorization, *EchoStar Satellite Operating Company; Application for Special Temporary Authority Related to Moving the EchoStar 6 Satellite from the 77° W.L. Orbital Location to the 96.2° W.L. Orbital Location, and to Operate at the 96.2° W.L. Orbital Location*, 28 FCC Rcd 4229, ¶ 16 (Int'l Bur. 2013).

[4] 47 C.F.R. § 25.148(f).

[5] The Bureau is further prohibited from relying on Article 4.4 of the ITU Radio Regulations with respect to DBS operations. The ITU Radiocommunication Bureau has explained that applying Article 4.4 to a DBS satellite "is not in compliance with the" Region 2 BSS Plan. *See* Letter from Yvon Henri, Chief, Space Services Department to Radiocommunications Agency Netherlands (Nov. 24, 2010), attached as Exhibit 2.

Sincerely,

/s/ Scott H. Angstreich
Scott H. Angstreich
Counsel to Spectrum Five LLC

Enclosure

cc: Diane Cornell, Special Counsel to Chairman Wheeler
Phuong Pham, Counsel for EchoStar

EXHIBIT 1

EchoStar's Misstatements Regarding EchoStar 6

1. Position

- EchoStar repeatedly told the Commission that "EchoStar 6 was successfully repositioned to 96.2° W.L. on April 13."[1] The conditions of the STA – and the BERMUDASAT-1 International Telecommunication Union ("ITU") filing – required EchoStar to "station-keep" EchoStar 6, that is to maintain EchoStar 6 within 0.05° of 96.2° W.L.[2]

- NORAD measurements show that EchoStar 6 was not successfully repositioned as of April 13, 2013. For example, EchoStar 6 exceeded the 0.05° station-keeping box on April 15 and April 16.[3] On July 15, 2013, EchoStar claimed that the NORAD data was inaccurate and submitted its own satellite tracking data, but it did not dispute the fact that EchoStar 6 had exceeded the 0.05° station-keeping box after April 13. Indeed, EchoStar admitted that its own data showed that EchoStar 6 was station-kept for only "a preponderance of the time" between April 13 and April 25, and was fully station-kept beginning on April 25, two weeks after EchoStar told the Commission that "EchoStar 6 was successfully repositioned."[4] The EchoStar data further showed that EchoStar 6 was more than 0.1° from 96.2° around April 15 and 16.[5]

- On January 3, 2014, EchoStar revealed that, in October 2013 (after the ITU raised questions about the location of EchoStar 6), it had determined that its July 2013 data submission to the Commission was erroneous. EchoStar waited at least two months before disclosing its error to the Commission and then provided only the vaguest description of the error.[6] But even according to EchoStar's "reconstructed" data, EchoStar 6 was not maintained within the 0.05° station-keeping box until November 2013, more than six months after EchoStar told the commission that "EchoStar 6 was successfully repositioned."[7] Recent NORAD measurements show that EchoStar 6 continued to violate the 0.05° station-keeping condition, including in February 2014.[8]

2. Power Levels

- In its February 2013 applications to move EchoStar 6 to 96.2° W.L., EchoStar represented that EchoStar 6 would operate at a reduced peak downlink power of 49.8 dBW EIRP (out of its maximum 54.7 dBW EIRP) so that it would not affect adjacent, operational satellite networks.[9] Because EIRP is reported on a logarithmic scale, this commitment reduced the power of EchoStar 6 by approximately 300 percent. The International Bureau conditioned the STA on EchoStar's compliance with this commitment.[10]

- Recent measurements taken by a third-party contractor over 24-hour periods on July 7, 2014 and July 25, 2014 show that EchoStar 6 was operating with an average downlink EIRP of 49.9 dBW and 51.0 dBW, respectively, at Woodbine

MD. These readings are consistent with an EIRP envelope of 50.5 ± 0.5 dBW at Woodbine, MD, which corresponds to a peak downlink EIRP of 55.85 ± 0.5 dBW at EchoStar 6's boresight. That peak downlink EIRP (55.85 ± 0.5 dBW) far exceeds the reduced peak downlink EIRP (49.8 dBW) at which EchoStar represented EchoStar 6 would operate.[11]

- EchoStar does not deny that EchoStar 6's peak downlink power has exceeded 49.8 dBW, nor has it provided to the Commission any peak downlink power data to contest Spectrum Five's data.[12] Instead, it claims that these excess power levels are permitted by a coordination agreement between EchoStar and DIRECTV. Spectrum Five cannot evaluate whether that statement is true because EchoStar has insisted on keeping the coordination agreement secret.

- At the very least however, EchoStar's claim conflicts with the United Kingdom's July 28, 2014 submission to the ITU. The United Kingdom stated that its 2013 Part B modification to the BERMUDASAT-1 filing "implement[ed] the coordination agreement reached between [the U.K. Administration] and the U.S. Administration with respect to U.S. ITU filings at 101° W.L."[13] That Part B modification indicates a peak EIRP at Miami, FL of 50.4 dBW, which corresponds to a maximum EIRP at Woodbine, MD of approximately 46.2 dBW.[14] However, measurements at Woodbine, MD show an EIRP of 50.5 ± 0.5 dBW. This EIRP observed at Woodbine, MD (50.5 ± 0.5 dBW) far exceeds the EIRP allowed at Woodbine, MD by the Part B filing (46.2 dBW). Because the Part B filing supposedly implements the coordination agreement on which EchoStar relies, it appears that EchoStar 6 is exceeding the power levels allowed by that coordination agreement.

- In any case, EchoStar has provided no analysis regarding how these excess power levels may affect other nearby satellite networks, such as the satellites operated by Telesat Canada at the 91° W.L. cluster. EchoStar's claim that the Telesat Canada satellites would not be affected was premised on a peak EIRP of 49.8 dBW, which EchoStar does not dispute that it is exceeding. And EchoStar does not claim that it has any coordination agreement with Canada that would allow it to operate at these higher power levels.[15] Nor does EchoStar provide any analysis how these excess power levels may affect Spectrum Five's reverse-band satellite at 95.15° W.L.

3. Remaining Useful Life

- In December 2011, EchoStar notified the Commission that it would partially suspend station-keeping for EchoStar 6 in the north-south direction, allowing the satellite to drift up to 0.5° beyond the equatorial plane — called an "inclined orbit."[16] According to EchoStar, this would save fuel and would extend EchoStar 6's expected end of life to February 2013, with an uncertainty of six months.[17]

- In its February 2013 application for authority to operate at 96.2° W.L., EchoStar continued to represent that the inclined orbit would be limited to 0.5°.[18] In fact, EchoStar had completely suspended north-south station-keeping for EchoStar 6 in the summer of 2012,[19] but EchoStar did not notify the Commission when it did so, as the Commission's rules require, instead waiting until December 2013 to disclose that fact.[20] At the time EchoStar submitted its modification application, EchoStar 6's orbital inclination already exceeded 1°, far more than the maximum 0.5° orbital inclination stated in the modification application.

4. Providing Service

- In its request to move EchoStar 6 to 96.2° W.L., EchoStar represented that it would "use EchoStar 6 at 96.2° W.L. to evaluate and develop commercial service opportunities in the Caribbean, Latin American, and North Atlantic markets," including "the provision of video programming and other services, including international maritime services, to consumers in Bermuda and elsewhere."[21] EchoStar further represented that EchoStar 6 was "in operation" at 96.2° W.L. as of April 13, 2013.[22] And EchoStar has continued to represent to the Commission that it has "commenced commercial development activities," which might lead to certain opportunities, including "direct-to-home services."[23]

- Despite being at 96.2° W.L. for over a year, EchoStar 6 has never provided — or even offered — service to any customer. In fact, only a single transponder (out of 32) has been activated, and then only for testing purposes. EchoStar has further admitted that it did not even activate that transponder until November 2013.[24]

- Because EchoStar completely suspended north-south station-keeping in the summer of 2012, EchoStar 6 is now operating at an inclined orbit of 2°, an amount that is continuing to grow. As a result, EchoStar 6 cannot be used to provide direct-to-home service to consumers, even though EchoStar has continued to represent direct-to-home service as one service EchoStar 6 will be able to provide from 96.2° W.L.[25]

5. Lack of Authorization from the United Kingdom and Bermuda

- In EchoStar's original February 20, 2013 STA application, EchoStar stated that its "development partner, SES Satellites (Bermuda) Ltd. . . . has been authorized to operate a BSS satellite at 96.2° W.L. pursuant to the BERMUDASAT-1 filing."[26] This fact was critical to EchoStar's application because it stated that SES would operate the satellite.[27]

- SES was not authorized to operate a BSS satellite at 96.2° W.L. when that statement was made. SES received two of the three Bermuda certifications in March 2013, and it did not receive its final license from Bermuda until August 2013.[28] Moreover, EchoStar did not disclose that SES — a Bermuda company — needed a license from the United Kingdom pursuant to the Outer Space Act of

1986.[29] Bermuda is not an ITU administration and cannot issue licenses. And the U.K. Space Agency — which is responsible for licensing, not Ofcom — has never issued (or even received an application for) such a license.[30]

6. Operating Parameters

- Direct Broadcast Satellites ("DBS") like EchoStar 6 must "operate[] in accordance with the sharing criteria and technical characteristics" of the ITU's Region 2 Broadcasting Satellite Service ("BSS") Plan.[31] In its application for authority to move EchoStar 6 to 96.2° W.L., EchoStar represented that EchoStar 6 would operate "pursuant to" the BERMUDASAT-1 ITU filing and therefore would be consistent with the Region 2 BSS Plan assuming that EchoStar successfully coordinated with other administrations.[32]

- The International Bureau has already concluded that EchoStar's representation was "not correct."[33] EchoStar is not pointing its beam toward the continental United States – as specified in the BERMUDASAT-1 filing – but rather has pointed its beam into the Atlantic Ocean.[34]

This Orbital Location Could Be Put To Better Use

EchoStar is attempting to warehouse valuable spectrum at the 96.2° W.L. orbital slot. Despite placing EchoStar 6 at that orbital slot more than a year ago, EchoStar has never provided service to any customer. In fact, EchoStar has activated only 1 of the 32 transponders on EchoStar 6, and then, only for testing purposes. EchoStar 6 cannot possibly provide direct-to-home service to consumers because of its highly inclined orbit. Nor can EchoStar resume north-south station-keeping for EchoStar 6 to enable direct-to-home service — the satellite would within months run out of fuel. The public interest therefore would be far better served if this orbital slot were in use by another satellite provider that would provide service immediately.

Spectrum Five could make better use of this orbital slot. It already holds an FCC license to operate a "reverse-band" satellite at 95.15° W.L. using the 17/24 GHz frequency ranges and has an international filing to operate a DBS satellite at 95.15° W.L. using the 12/17 GHz frequency ranges. Spectrum Five has raised $30 million and spent $20 million on the construction of a dual-band satellite that can simultaneously utilize both the reverse band and the DBS spectrum. This satellite is on schedule to be launched and in operation with at least its reverse-band capacity by August 30, 2016.

However, if EchoStar is allowed to keep EchoStar 6 at the 96.2° W.L. orbital location, Spectrum Five's satellite will be unable to provide DBS service from the 95.15° W.L. orbital location because DBS cannot feasibly operate with 1° separation. EchoStar 6 also threatens Spectrum Five's ability to provide reverse band 17/24 GHz service from 95.15° W.L. EchoStar has submitted no interference analysis to show that, given EchoStar 6's excess power levels and highly inclined orbit, EchoStar 6 will not interfere with Spectrum Five's reverse-band satellite or other nearby satellite networks.

Accordingly, allowing EchoStar 6 to remain at 96.2° W.L. will harm consumers by tying up valuable spectrum that could be put to use for service by Spectrum Five. Entry by Spectrum Five, moreover, would add much needed competition to the satellite broadcast market that is currently controlled by only two providers — Dish Network (through its affiliate EchoStar) and DIRECTV.

EchoStar's repeated misstatements provide another reason the Commission should reject its requests to modify permanently EchoStar 6's license to allow it to operate at 96.2° W.L. "The duty of absolute truth and candor is a fundamental requirement for those appearing before the Commission," because the Commission's "decisions rely heavily on the completeness and accuracy of applicants' submissions," as the Commission "do[es] not have the resources to verify independently each and every representation made in the thousands of pages submitted to [it] each day." Apparent Liability for Forfeiture, *In re SBC Commc'ns, Inc.*, 16 FCC Rcd 19091, ¶ 42 (2001); *see* 47 C.F.R. §§ 1.17, 1.65. EchoStar's pattern of misrepresentations in the EchoStar 6 proceedings detailed above – and failure to correct those misrepresentations – call into question each of the grounds EchoStar has asserted for granting the application.

[1] *E.g.*, Opposition of EchoStar to Application for Review at 5, *EchoStar Satellite Operating Company; Application for Special Temporary Authority Related to Moving the EchoStar 6 Satellite from the 77° W.L. Orbital Location to the 96.2° Orbital Location, and to Operate at the 96.2° W.L. Orbital Location*, IBFS File No. SAT-STA-20130220-00023 (Apr. 22, 2013) ("EchoStar 4/22/13 Opp'n").

[2] *See* Order and Authorization, *EchoStar Satellite Operating Company; Application for Special Temporary Authority Related to Moving the EchoStar 6 Satellite from the 77° W.L. Orbital Location to the 96.2° W.L. Orbital Location, and to Operate at the 96.2° W.L. Orbital Location*, 28 FCC Rcd 4229, ¶ 20(b) (Int'l Bur. 2013) ("Bureau Order").

[3] Letter from Scott Angstreich, Kellogg, Huber, Hansen, Todd, Evans & Figel P.L.L.C., to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-STA-20130510-00067 *et al.* (Aug. 13, 2013).

[4] Letter from Phuong N. Pham, Kellogg, Wilkinson, Barker, Knauer LLP, to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-STA- 20130510-00067 *et al.* (July 15, 2013).

[5] *Id.*

[6] Letter from Jennifer A. Manner, EchoStar, to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-STA- 20130510-00067 *et al.* (Jan. 3, 2014) ("EchoStar 1/3/14 Letter") (claiming "an incorrect spacecraft calibration parameter had been inserted into a calibration file used for spacecraft ranging," which caused a 0.035° to 0.040° westward bias).

[7] *Id.*

[8] Opposition of Spectrum Five LLC at 9-10, *In re EchoStar Satellite Operating Company*, IBFS File No. SAT-STA-20140513-00050 (June 9, 2014) ("Spectrum Five 6/9/14 Opp'n").

[9] Application Narrative, Exhibit 2 at 1-2, Application for Special Temporary Authority, *EchoStar Satellite Operating Corporation*; *Request for Special Temporary Authority to Move EchoStar 6 to, and Operate It at, 96.2° W.L.*, IBFS File No. SAT-STA-20130220-00023 (Feb. 20, 2013) (emphasis added) ("Initial STA Application"); *see also id.* at 4-5 (repeating statements that EchoStar 6 would operate with "a peak downlink EIRP of 49.8 dBW").

[10] *Bureau Order* ¶¶ 10, 20.

[11] *See* Supplemental Opposition of Spectrum Five, LLC, *In re EchoStar Satellite Operating Company*, IBFS File No. SAT-STA-20130510-00067 *et al.* (July 15, 2014) ("Spectrum Five 7/15/14 Opp'n").

[12] *See* Letter from Jamie Londono, EchoStar, to Marlene H. Dortch, Secretary, FCC, at 2, IBFS File Nos. SAT-MOD-20130227-00026 *et al.* (July 30, 2014).

[13] Letter from Tony Azzarelli, Ofcom, to Space Services Department, Radiocommunication Bureau, ITU, Attachment 1 at 2-3 (July 28, 2014).

[14] Letter from M.M. Hoogland, Radiocommunication Agency Netherlands, to François Rancy, Executive Secretary, Radio Regulations Board, ITU, at 4 (July 8, 2014).

[15] Initial STA Application, Exhibit 2 at 5.

[16] *See* Letter From Pantelis Michalopoulos, Steptoe & Johnson LLP, to Marlene H. Dortch, IBFS File No. SAT-STA-20111004-00194 (Dec. 2, 2011).

[17] *Id.*

[18] Schedule S at S3f, *EchoStar Satellite Operating Corporation*; *Request for Modification of Authorization to Move EchoStar 6 to, and Operate It at, 96.2° W.L.*, IBFS File No. SAT-MOD-20130227-00026 (Feb. 27, 2013).

[19] Motion to Strike Supplement to Petition to Deny of EchoStar, *EchoStar Satellite Operating Corporation; Request for Modification of Authorization to Operate EchoStar 6 at 96.2° W.L.*, IBFS File No. SAT-MOD-20130227-00026 *et al.* (Dec. 9, 2013).

[20] 47 C.F.R. § 25.280(a).

[21] Initial STA Application at 2.

[22] *E.g.*, EchoStar 4/22/13 Opp'n at 5.

[23] *See*, *e.g.*, Narrative at 2-3, Application for Special Temporary Authority, *EchoStar 6 STA Renewal*, IBFS File No. SAT-STA-20140513-00050 (May 13, 2014) ("May 2014 STA Application").

[24] Spectrum Five 6/9/14 Opp'n at 5-7.

[25] *Id.* at 6.

[26] Initial STA Application at 2.

[27] *See id*.

[28] *See* Letter from Jennifer A. Manner, EchoStar, to Marlene H. Dortch, Secretary, FCC, at 2, IBFS File Nos. SAT-STA-20140113-00004 *et al.* (Mar. 31, 2014).

[29] Outer Space Act, 1986, Eliz. c. 38, §§ 1, 3, *available at* http://www.bis.gov.uk/assets/ukspaceagency/docs/osa/outer-space-act-1986.pdf.

[30] Spectrum Five 6/9/14 Opp'n at 12-13.

[31] 47 C.F.R. § 25.148(f). "BSS" is the phrase used by the international community to refer to "DBS."

[32] Initial STA Application at 2.

[33] *See Bureau Order* ¶ 18.

[34] *See* Letter from William M. Wiltshire, Wiltshire & Grannis LLP, to Marlene H. Dortch, Secretary, FCC at 2-3, IBFS File Nos. SAT-STA-20130220-00023 (Feb. 25, 2013).

EXHIBIT 2

Radiocommunications Agency
Ministry of Economic Affairs, Agriculture and Innovation

International Telecommunication Union
Telecommunication Bureau
Attn Mr. M. Sakamoto
Head SNP
Place des nations
1211 Geneva 20
Switzerland

Emmasingel 1
PO box 450
9700 AL Groningen
The Netherlands
T +31 50 587 74 44
F +31 50 587 74 00
www.agentschaptelecom.nl
info@agentschaptelecom.nl

Contact
J.G. Kroon

T +31 50 5877 344

+41 22 730 5785

fax

Our reference
AT-EL&I/6510157

Number of pages
2 (including cover page)

Date 15 November 2010
Subject Application of Article No. 4.4 of the ITU Radio Regulations

Dear Mr. Sakamoto,

With this fax the Netherlands Administration would like to ask you to clarify a point from our meeting in July of this year.

We discussed the possibility of an administration bringing into use a satellite network prior to completion of the procedures in Article 4 of the Region 2 BSS Plan. I believe that both you and Mr. Henri indicated that Article No. 4.4 of the RR could not be relied upon to override the Plan's prohibitions against premature operation. Could you please confirm that this was your view?

It is clear to me that even if someone tried to claim operation of a satellite network under Article No. 4.4, they would need to notify under No. 4.4 or No. 8.4 and not claim that assignments made under another set of regulations are able to operate under No. 4.4. At the very least, they would need some kind of domestic authority that meets both of the "express" conditions in No. 4.4. Is this your view as well?

Finally I would like to ask you if in case an operator/administration used Article No. 4.4, it can simply be claimed or are there procedures to follow?

Date
15 November 2010

Our reference
AT-EL&I/6510157

Please contact Mr. Johan Kroon of my Administration (tel. +31 50 5877 344 or e-mail: johan.kroon@at-ez.nl) if you need any further details.

Thank you in advance for your guidance.

Yours sincerely,

on behalf of
The Minister of Economic Affairs,
Agriculture and Innovation

M.M. Hoogland MSc.MBA
Head of the Networks Department
Radiocommunications Agency Netherlands

CC: Mr. Y. Henri, ITU

31005

6516095

INTERNATIONAL TELECOMMUNICATION UNION

Radiocommunication Bureau

TELEFAX

Place des Nations
CH-1211 Geneva 20
Switzerland

Telephone +41 22 730 51 11
Telefax Gr3: +41 22 730 57 85
Gr4: +41 22 730 65 00

SNE

Date: 24 November 2010 **Time:** **Page** 1/1 **Ref:** 30-30A4(SNP)/0.4370/10

To: Radiocommunications Agency Netherlands
P.O. Box 450
NL - GRONINGEN , 9700 AL
Netherlands

Fax: +31 50-5877400

From: Yvon Henri, Chief, SSD

For your reply:
E-Mail: BRMail@itu.int
Fax: +41 22 730 5785 **Tel: +41 22 730 5536**

Subject: Operation of Space Stations under Provision 4.4 of the Radio Regulations

Ref.: a) Your telefax AT-EL&I/6510157 dated 15 November 2010

Dear Sir/Madam,

1. The Radiocommunication Bureau acknowledges receipt of the telefax referred to above. In this regard, the Bureau would like to inform your administration that for the Bureau to process a request for recording an assignment under provision No. **4.4** of the Radio Regulations, this request has to be submitted to the Bureau by the notifying administration in forms specified in Appendix **4**. Regarding the national authorisation to operate a satellite network under No. **4.4**, this is the prerogative of the administration and beyond the scope of responsibility of the Bureau.

2. The application of No. **4.4** of the Radio Regulations to Region 2 broadcasting-satellite service space stations in the frequency bands 12.2-12.7 GHz & 17.3-17.8 GHz is not in compliance with the observance of the provisions in the Radio Regulations, namely those mentioned in provisions 3.2, 4.2.1, 4.2.6, 4.2.16, 4.2.23, 5.1.1, 5.1.2, 5.1.3, 5.1.4, 5.2.2, 5.2.2.2 and 5.2.6 of Appendices **30** and **30A**. The attention of your administration is drawn also to specific provisions like 4.2.21A that allow provisional recording of assignments in the MIFR when the agreement seeking procedure has not been successfully effected.

3. The Bureau is of the opinion that frequency assignments to a satellite network should be operated in application of the due process of the agreement seeking and notification procedures, even if the required agreements cannot be obtained with all the administrations. In that regard, No. **4.4** of the Radio Regulations cannot be invoked in the case of missing agreements.

4. Please also note that there is a provision, namely 5.1.4 of Appendices **30** and **30A**, that anticipates submission of a notice after the assignments have been brought into use. There are a number of assignments recorded in the MIFR in application of this provision.

Yours faithfully,

Yvon Henri
Chief, Space Services Department