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May 13, 2016

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

**Re: Response to Informal Comments of ORBCOMM on
Application of Spaceflight, Inc., Request for Special
Temporary Authority,
File No. SAT-STA-20150821-00060**

Dear Ms. Dortch:

Pursuant to Sections 25.154(c) of the Commission's Rules, Spaceflight, Inc. ("Spaceflight") hereby replies to the "Informal Comments" ("Comments") of ORBCOMM License Corp ("ORBCOMM") on the above-referenced request (the "Request") of Spaceflight for Special Temporary Authority to communicate with its SHERPA spacecraft.

Spaceflight demonstrates below that:

(1) ORBCOMM's Comments were submitted long past the Commission's comment deadline and that delaying action on the Request would be highly prejudicial both to Spaceflight and its customers;

(2) ORBCOMM does not dispute that the fact that the SHERPA spacecraft more than satisfies the relevant NASA standard for collision avoidance generally with objects in space; further, as Spaceflight has shown, the risk of collision is infinitesimally small; and

(3) As made clear by the Commission in its *Public Notice* of Spaceflight's application "the [R]equest is limited to the SHERPA spacecraft and does not extend to individual licenses for the small spacecraft on board SHERPA."¹ Spaceflight will not be the operator of these spacecraft and any issues that ORBCOMM may perceive to exist regarding the operation of such spacecraft are not properly raised with respect to the Request.

A. ORBCOMM WAITED MORE THAN TWO MONTHS AFTER THE DEADLINE FOR SUBMITTING COMMENTS; IT WOULD BE HIGHLY PREJUDICIAL TO SPACEFLIGHT AND ITS CUSTOMERS TO DELAY ACTION ON SPACEFLIGHT'S REQUEST AS A RESULT.

Spaceflight's Request was placed on *Public Notice* by the Commission on January 22, 2016.² Pursuant to Section 25.154(a)(2) of the Commission's rules, all "objections or comments" on the Request were required to be filed no later than 30 days after the date of that *Public Notice*; in this case no later than February 22, 2016.³

ORBCOMM seeks to excuse its delay by stating that it "only recently learned" that the SHERPA mission involved the proposed deployment of approximately 90 satellites or the orbit of the orbital parameters of the SHERPA mission.⁴ ORBCOMM's explanation is without merit. While ORBCOMM complains that the Commission's *Public Notice* failed to "mention the orbital parameters of the mission or the large number of spacecraft proposed for deployment,"⁵ in fact the *Public Notice* expressly stated the SHERPA mission is "designed to deploy approximately 90 small spacecraft in low Earth orbit," more than sufficient notice for ORBCOMM both to know the

¹ Application of Spaceflight, Inc., Request for Special Temporary Authority, File No. SAT-STA-20150821-00060; *Public Notice*, Report No. SAT-01130, January 22, 2016 ("*Public Notice*").

² *Id.*

³ 47 C.F.R. § 25.145(a)(2). That Section 25.154(b) of the Commission's rules classifies filings not made in conformance with Section 25.154(a) as "informal objections" does not excuse the failure of a party timely to file any objections that it may have in accordance with Section 25.154(a).

⁴ Comments at 1, n.2.

⁵ *Id.*

approximate number of spacecraft to be deployed and to review the particulars of the Request, all of which were publicly available for ORBCOMM's inspection.

Launch and mission operations involve considerable long-term planning and activities. The continued pendency of Spaceflight's Request before the Commission creates considerable uncertainty not only for Spacecraft but for the customers with spacecraft to be deployed by the SHERPA, including many federal government programs.

Responding to ORBCOMM's vague and wide-ranging informational requests, much less attempting to resolve such matters with ORBCOMM, would take far longer than practically could be accomplished and still go forward with the launch in anywhere near its current schedule. ORBCOMM's alternative suggestion that at this late date, it would be "fast" and "easy" to lower the Formosat-5 or SHERPA orbit altitude to eliminate ORBCOMM's concerns⁶ is equally unrealistic. Mission plans are hardly so easily changed, especially where, as here, when there is another unrelated payload to be launched by the launch vehicle.

B. THE CHANCES OF AN IN-ORBIT COLLISION ARE INFINITESIMAL; NO ADDITIONAL SHOWING IS REQUIRED

Spaceflight demonstrated in its Request its compliance with the NASA standard (less than 0.001)⁷ for collision avoidance with objects generally in space. ORBCOMM does not dispute this determination.

ORBCOMM erroneously asserts that Spaceflight must make a more detailed showing of collision avoidance specifically with respect to ORBCOMM's satellites. An additional showing would be required only in circumstances where the orbit of the SHERPA would be "identical" or "very similar" to that of ORBCOMM's system.⁸ That is not the case. The SHERPA orbit will be 720 X 420 km at a 97.4 degree inclination which is neither identical nor very similar to ORBCOMM's 715 X 715 km and 47 degree orbit.

Spaceflight's showing discharges its obligations with respect to the risk of collision avoidance under Section 25.114(d)(14) of the Commission's Rules. Contrary to ORBCOMM's assertion, there is no Commission requirement for individual

⁶ Comments at 4.

⁷ *Process for Limiting Orbital Debris*, NASA-STD 8719.14A, Section 4.5.2.1.

⁸ 47 C.F.R. § 25.114(d).

coordination with every operator conceivably impacted by a particular deployment nor does the language quoted by ORBCOMM say anything to that effect.⁹ Nor is there any Commission rule that would require spacecraft to be equipped with GPS or propulsion devices or that would require the other extensive showings and analysis that ORBCOMM now would seek to add to an evaluation of the SHERPA Request.

C. ORBCOMM SHOULD NOT BE PERMITTED TO USE ITS FILING AGAINST SPACEFLIGHT AS SURROGATE FOR ITS DISPUTE WITH THE OPERATORS OF THE SPACECRAFT TO BE DEPLOYED BY THE SHERPA.

Spaceflight will not be the operator of any of the spacecraft to be deployed by the SHERPA. The Commission's *Public Notice* makes very clear that the Request at issue is limited to the SHERPA spacecraft itself and not involve a request for authorization to communicate with the individual spacecraft that the SHERPA will deploy. If and to the extent that ORBCOMM has issue with the operation of those individual spacecraft then its concerns ought to be addressed to the operators of those spacecraft and, if need be, the administrations responsible for licensing them.¹⁰

ORBCOMM has, in fact, already filed petitions against the two U.S. operators of the majority of the spacecraft to be deployed by the SHERPA and those operators have appropriately responded.¹¹ Spaceflight hopes that the matters raised in these petitions will be resolved promptly and in fair and equitable manner. Such resolution is not aided and ORBCOMM should not be permitted collaterally to attack these operators by opening up an additional line of attack against Spaceflight, nor should the fact of ORBCOMM's attack against some operators force a delay in the SHERPA flight and the other spacecraft to be deployed.

⁹ See Comments at 3.

¹⁰ ORBCOMM complains that the list of spacecraft to be deployed and associated administrations already submitted to the Commission was preliminary. While the final manifest could be impacted, among other reasons by delays in acting upon the Request, there are no plans to add any spacecraft to the list currently contained in the public record.

¹¹ See Planet Labs Inc., Opposition to Petition to Dismiss, Deny or Hold In Abeyance, File No. SAT-MOD-20150802-00053, Call Sign S2912 (filed, February 3, 2016); Spire Global, Inc., Opposition to Petition to Dismiss, Deny or Hold In Abeyance, File No. SAT-LOA-20151123-00078 Call Sign S2946 (filed March 8, 2016).

D. CONCLUSION

Spaceflight respectfully urges the Commission not to let ORBCOMM's belated "informal comments" on Spaceflight's Request delay prompt and necessary action to grant that Request.

Respectfully submitted,

A handwritten signature in cursive script that reads "Henry Goldberg".

Henry Goldberg
Jonathan L. Wiener
Attorneys for Spaceflight, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2016, a copy of the foregoing Letter was sent by first class United States mail, postage prepaid, to the following:

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/s/ _____
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* Via U.S. mail and E-mail