

January 26, 2015

File Number: 32VH-175063

VIA ELECTRONIC FILING

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

Re: Comments of Eutelsat on Market Access Application of Inmarsat Mobile Networks, Inc.,
FCC File Nos. SES-LIC-20120426-00397; SES-AMD-20120823-00781; SES-AMD-
20150114-00008; Call Sign E120072

Dear Ms. Dortch:

Supplemental to the notice of *ex parte* filed by Eutelsat S.A. ("Eutelsat") in the above-referenced proceeding,¹ Eutelsat hereby submits these comments on Inmarsat's pending application to operate a gateway earth station at Lino Lakes, Minnesota and obtain U.S. market access for the Inmarsat-5 F2 ("I5F2") satellite to be located at 55° W.L. (the "Market Access Application").

Background. On October 19, 2009, France submitted a coordination request to the ITU under the filing name MM 55.2W (the "Eutelsat ITU Filing"). Eutelsat plans to deploy and operate a Ka-band satellite network no later than the fourth quarter of 2015 in the 55.2° W.L. orbital slot, which will bring into use the Ka-band frequencies under the Eutelsat ITU Filing.

On January 15, 2010, the United Kingdom submitted a coordination request on behalf of Inmarsat for the Inmarsat-Ka 55W ITU filing (the "Inmarsat ITU Filing").² The I5F2 will use portions of the C and Ka-bands to provide service "to earth stations in North, Central and South America, including the Caribbean, Europe, West Africa, the Atlantic Ocean region, and a portion of the Pacific Ocean region."³ These frequency bands and service areas are similar to the operations that Eutelsat plans for its forthcoming satellite network that will operate a mere 0.2° away from the I5F2.

¹ Letter from Brian D. Weimer, Counsel to Eutelsat, to Marlene H. Dortch, Secretary, FCC, File Nos. SES-LIC-20120426-00397; SES-AMD-20120823-00781; SES-AMD-20150114-00008 (dated Jan. 22, 2015).

² *Market Access Application*, Exhibit A at 5, fn. 3.

³ *Market Access Application*, Technical Annex at 1.

Under the ITU's Radio Regulations, it is the responsibility of administrations with lower priority (in this case, the United Kingdom) to coordinate their networks with Administrations with higher priority (in this case, France). Accordingly, Inmarsat must coordinate the proposed operation of the I5F2 satellite under the Inmarsat ITU Filing with France and Eutelsat.

The parties met at Eutelsat headquarters in Paris on June 20, 2013 to discuss coordination, notably concerning the Eutelsat ITU Filing and the Inmarsat ITU Filing, and to exchange information on respective plans in the Ka-band at various orbital locations including 55° W.L. In particular, Eutelsat indicated to Inmarsat at that time that they had plans to place Ka-band satellites at 55.2° W.L. under the Eutelsat filing and as such that normal coordination with Inmarsat at 55° W.L. was not feasible. Not surprisingly, Inmarsat so far has been unable to reach a coordination agreement with Eutelsat.

Discussion. Eutelsat remains very concerned that operation of the Inmarsat I5F2 satellite at 55° W.L. will be entirely infeasible given the very close proximity of the satellite to Eutelsat's proposed satellite at 55.2° W.L. Indeed, Inmarsat is well-aware of the challenges satellite companies face in the international frequency coordination process. In October of 2014, Inmarsat surrendered its grant of U.S. market access for a Ka-band satellite at 63° W.L. because of "unresolved issues in the international frequency coordination process."⁴ Like the current Market Access Application, the authorization at 63° W.L. was also intended to support Inmarsat's Global Xpress service. Inmarsat now appears to be substituting 55° W.L. for 63° W.L. But any action by the FCC granting the current Market Access Application is likely to meet the same end: surrender by Inmarsat for failure to resolve international frequency coordination issues. Accordingly, the Commission should conserve its administrative resources by declining to grant the Inmarsat Market Access Application.

In the alternative, the Commission should place conditions on the Market Access Application that will recognize and preserve Eutelsat's superior ITU date priority over Inmarsat in the 55.2° W.L. region. Placing such conditions on any grant of the Market Access Application is consistent with Commission precedent and will further the public interest. In a case that is remarkably similar to the current situation facing Inmarsat and Eutelsat, the Commission in *Loral Spacecom Corporation* recognized the superior ITU priority rights of New Skies at 120.8° W.L. over the rights of Loral just 0.2° away at 121° W.L. by placing three conditions on the market access grant for the Telstar 13 satellite.⁵ These three conditions can be summarized and applied to Inmarsat as follows:

⁴ See Letter from Christopher J. Murphy, Vice President, Government Affairs, Inmarsat, to Marlene H. Dortch, Secretary, FCC, File No. SAT-LOI-20140326-00034 (dated Oct. 20, 2014).

⁵ See *Loral Spacecom Corporation, Petition for Declaratory Ruling to Add Telstar 13 to the Permitted Space Station List*, Order, DA 03-2624 ¶16 (rel. Aug. 8, 2003) (explaining that "a lower ITU priority network may be permitted to access the U.S. market if a higher ITU priority satellite has not been launched, but in such a case the lower ITU priority network is subject to proof of coordination with the higher ITU priority satellite. Absent such demonstration, the lower ITU priority satellite must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority

footnote continued on the next page.

- In the absence of a coordination agreement with a satellite network with higher ITU priority, I5F2 must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU date precedence.
- In the absence of a coordination agreement with a satellite network with higher ITU priority, earth station licensees communicating with I5F2 must terminate immediately any operations that cause harmful interference.
- Inmarsat's operation of I5F2 shall be in compliance with applicable current and future operational requirements as a result of coordination agreements reached with other satellite systems.⁶

The foregoing conditions will further the public interest by fulfilling the Commission's commitment to "take into account the impact of the ITU coordination process" when processing applications for market access by non-U.S. licensed space stations like Inmarsat's I5F2.⁷

Conclusion. For the foregoing reasons, Eutelsat respectfully requests that the Commission conserve administrative resources by declining to grant the Inmarsat Market Access Application. In the alternative, Eutelsat respectfully requests that any Commission grant of the Market Access Application include the three conditions described above.

Very truly yours,

/s/ Brian D. Weimer

Brian D. Weimer
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Counsel to Eutelsat S.A.

cc: Renee Gregory, Office of Chairman Wheeler
Jose Albuquerque, International Bureau, Satellite Division
Christopher J. Murphy, Inmarsat

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satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU date precedence. We condition Loral's authorization accordingly.")

⁶ *Id.* at ¶31.

⁷ *Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd 10760, 10870, ¶296 (rel. May 19, 2003).