

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

In the Matter of Application by)
)
BT AMERICAS INC.) File Nos. SES-LFS-20060303-00343 &
) SES-AMD-20060316-00448
For a Blanket License to Operate)
BGAN Terminals with Inmarsat 4F2)

OPPOSITION OF BT AMERICAS INC.

BT Americas Inc. ("BTA") hereby opposes the Petition to Hold in Abeyance of Mobile Satellite Ventures Subsidiary LLC (the "MSV Petition") filed on April 14, 2006 in the above-referenced proceeding. The MSV Petition seeks to defer Commission consideration of BTA's proposal to offer users access to Broadband Global Area Network ("BGAN") services over Inmarsat's 4F2 satellite. MSV, however, provides no legitimate grounds for delaying introduction of valuable BGAN services to U.S. customers. Accordingly, the International Bureau should deny the MSV Petition and expeditiously grant BTA's application.

The MSV Petition repeats here arguments that have been raised and refuted in other proceedings before the Commission relating to proposed BGAN operations. Rather than provide a lengthy rebuttal on matters that have been thoroughly briefed, BTA refers the Commission to the pleadings already on file¹ and provides here a response to the main allegations in the MSV Petition.

¹ See, e.g., Oppositions of MVS USA, Inc. and Inmarsat Ventures Limited, File No. SES-LFS-20051123-01634 (filed Jan. 26, 2006); Oppositions of Telenor Satellite,

BTA, notes, however, that its ability to meaningfully address the issues raised by MSV has been undermined by MSV's redaction of significant portions of the Petition. BTA cannot effectively respond to claims that rely on information that MSV is withholding. Accordingly, in order to protect BTA's due process rights under the Communications Act and the Administrative Procedure Act we ask that the Bureau strike those portions of the MSV Petition that are based on allegedly confidential materials.²

As BTA demonstrated in its application, grant of authority to provide BGAN services using Inmarsat 4F2 will serve the public interest because it will permit U.S. customers to access faster, more flexible, and more robust satellite broadband services. The MSV Petition is a transparent attempt to use Commission processes to impede the introduction of competing mobile satellite services and to gain leverage in an ongoing international coordination dispute. The Petition fails to provide any technical evidence to buttress MSV's assertions that it will be harmed by the commencement of BGAN services. Accordingly, consistent with precedent established in proceedings relating to MSV's own applications for new L-band satellites, the Bureau should grant BTA's application, subject only to a condition requiring that BGAN services be provided on a non-harmful interference basis.

Inc. and Inmarsat Ventures Limited, File Nos. SES-LFS-20050930-01352 *et al.* (filed Dec. 7, 2005); Consolidated Joint Response of Telenor Satellite Inc., FTMSC US LLC, BTA, Inc., MVS USA, Inc., Stratos Communications, Inc., and Inmarsat Ventures Limited, File Nos. SES-STA-20060310-00419 *et al.* (filed Apr. 6, 2006).

² See, e.g., Motion to Strike of MVS USA, Inc, File No. SES-LFS-20051123-01634 (filed Jan. 26, 2006); Motion to Strike of Telenor Satellite, Inc., File Nos. SES-LFS-20050930-01352 *et al.* (filed Dec. 7, 2005).

I. MSV FAILS TO SUPPORT ITS INTERFERENCE CLAIMS

The bulk of the MSV Petition is devoted to the argument that action on BTA's application must be deferred in order to protect MSV from the threat of harmful interference (MSV Petition at 11-21). MSV, however, fails to back up its assertions that such a threat exists.

Repeatedly the MSV Petition refers to the "potential for interference" (MSV Petition at 17 & 19) or to interference that "may result" from BGAN operations (*id.* at 14). Nowhere, however, does the Petition provide any evidence to corroborate these claims. In fact, the Petition provides no technical analysis whatsoever, instead relying wholly on speculation and unsupported inferences.

BTA, of course, is not the first to observe that the MSV complaints concerning the BGAN service lack any evidentiary support. In each proceeding involving a request for authority to use Inmarsat 4F2 for BGAN services to the U.S., MSV has made unsupported allegations of interference risk, and in each case the applicants and Inmarsat have called MSV on its failure to back up its assertions with credible technical data.³

Most recently, Inmarsat noted that "despite having had *eight* 'bites at the apple,' MSV still does not provide any technical analysis to support its assertions [that] the I-4 presents an interference threat."⁴ It seems safe to assume

³ See, e.g., Opposition of MVS USA, Inc. at 5-8, File No. SES-LFS-20051123-01634 (filed Jan. 26, 2006); Opposition of Telenor Satellite, Inc. at 5, File Nos. SES-LFS-20050930-01352 *et al.* (filed Dec. 7, 2005).

⁴ Opposition of Inmarsat Ventures Limited at 4, File No. SES-LFS-20051123-01634 (filed Jan. 26, 2006) (emphasis in original; footnote omitted).

at this point that if MSV had evidence that would substantiate its interference allegations, it would have introduced it by now.

Without such evidence, the Bureau cannot give credence to MSV's claims or to its request that valuable services be delayed. The mere possibility that the introduction of new operations might cause interference is patently insufficient to warrant deferral of Commission action – if it were, then no new services could ever be introduced except into wholly unused spectrum. Here, Inmarsat has expressly committed to operate on a non-harmful interference basis,⁵ and with that condition, BTA's application should be expeditiously granted.

II. MSV'S REQUEST FOR DEFERRAL PENDING COORDINATION CONFLICTS WITH ESTABLISHED L-BAND PRECEDENT

Absent concrete evidence of a material risk of harmful interference, there is no justification for MSV's claim that the Bureau must defer action on BTA's application pending completion of coordination of Inmarsat 4F2. Instead, consistent with the decisions concerning MSV's applications for new L-band satellites, the Bureau should authorize BGAN services on a non-harmful interference basis and subject to the outcome of coordination.

Last year MSV was authorized to launch and operate two new L-band satellites notwithstanding the fact that the L-band operators do not have a current

⁵ *Id.* at 4 (“Inmarsat has committed to operating (as MSV itself must operate) on a non-harmful interference basis.”).

coordination agreement in effect.⁶ In each case, the Bureau required MSV to coordinate its operations, and advised MSV that until such coordination was completed, its authorized operations would “be on a non-harmful interference basis to other lawfully operating satellite or radio facilities and will receive no protection from interference caused by those facilities.” *MSV-SA Order* at 487.

BTA has requested, and is entitled to receive, authority on the same terms and conditions. As noted above, Inmarsat has expressly agreed that BGAN operations will be on a non-harmful interference basis. Given that commitment, MSV has no grounds for suggesting that action on the BGAN applications should be deferred.

MSV’s weak attempts to distinguish the MSV-1 and MSV-SA decisions from the circumstances at issue here are unavailing. MSV attempts to reconcile its position on BGAN with these two decisions by first observing that no party claimed that MSV-1 and MSV-SA would cause interference (MSV Petition at 10-11 n.24). As discussed above, however, MSV’s completely unsupported assertions of an interference threat from BGAN services cannot justify withholding authority for those services. MSV also argues that because launch of its new satellites was several years off, the Bureau could safely conclude that coordination would occur prior to launch. MSV does not explain how the Bureau could reach such a determination given the fact that at the time of its decisions, six years had already

⁶ *Mobile Satellite Ventures Subsidiary LLC*, Order and Authorization, 20 FCC Rcd 9752 (Int’l Bur. 2005) (“*MSV-1 Order*”); *Mobile Satellite Ventures Subsidiary LLC*, Order and Authorization, 20 FCC Rcd 479 (Int’l Bur. 2005) (“*MSV-SA Order*”).

elapsed since the last L-band coordination agreement had been reached. In any event, the Bureau clearly contemplated that coordination might not be achieved prior to commencement of services on the new satellites, since it required that MSV operate on a non-harmful interference basis pending completion of coordination.

The other cases MSV relies on to argue that coordination must precede authorization of BGAN services (MSV Petition at 11 n.25) likewise provide no support for MSV's position. None of those cases involves L-band spectrum and the unique coordination framework for L-band systems. In any event, MSV's own characterization of the decisions makes clear that they are inapplicable here. MSV states that the cases demonstrate that the Bureau "will not authorize an uncoordinated satellite to provide service if there is *evidence* that interference *will* result." *Id.* at 11 (emphasis added). Again, however, nothing in the MSV Petition provides such evidence.⁷

BTA urges the Bureau to act consistently with its own precedent by expeditiously authorizing the commencement of BGAN services pending resolution of L-band coordination issues.

⁷ See also Opposition of Inmarsat Ventures Limited at 18-19 n.49, File No. SES-LFS-20051123-01634 (filed Jan. 26, 2006), where Inmarsat provides a more detailed analysis demonstrating that the cases cited by MSV in note 25 are inapposite.

III. THE OTHER ISSUES RAISED BY MSV DO NOT JUSTIFY DEFERRAL OF ACTION

At the end of its Petition, MSV raises a short list of additional issues concerning BTA's application that MSV suggests warrant "further scrutiny" (MSV Petition at 22-25). None of these items require substantive Bureau attention.

First, MSV disputes the characterization of Inmarsat 4F2 as a replacement satellite for FCC purposes. *Id.* at 22. However, this characterization is consistent with the treatment of MSV's proposed follow-on spacecraft in the *MSV-1 Order* (at ¶ 14). Furthermore, because the Bureau has already determined that it can act on applications for new L-band services without instituting a processing round (*see MSV-SA Order* at ¶ 8), the FCC's classification of Inmarsat 4F2 is irrelevant to processing of BTA's application.

Second, MSV comments on the appropriate stationkeeping tolerance for the 4F2 spacecraft (MSV Petition at 22-23). MSV's suggestion that a waiver of Section 25.210(j) of the Commission's rules is required here is inconsistent with the position the company has previously taken, in which it argued that rule is inapplicable to MSS systems. In any event, the circumstances that led to concern about East-West stationkeeping matters in the *MSV-1 Order* – the presence of multiple satellites assigned to 101° W.L. and therefore affected by MSV's stationkeeping practices (*see MSV-1 Order* at ¶ 21) – are inapplicable here.⁸

Third, MSV notes that BTA has not submitted an agreement with the Executive Branch on national security and law enforcement matters (MSV Petition

⁸ See BTA Application, Attachment A at 47 ("there are not expected to be any other satellites within the same station-keeping volume as Inmarsat 4F2").

at 23-24). As BTA advised in its application, it is in the process of negotiating an agreement on these matters (BTA Application, Exhibit A at 4). BTA will keep the Commission advised concerning this negotiation.

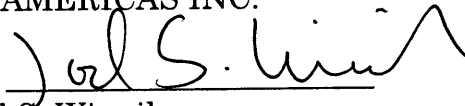
Finally, MSV raises an issue concerning compliance with possible future requirements concerning E911 (MSV Petition at 24-25). If such requirements are adopted that apply to provision of BGAN services, BTA will comply with them.

IV. CONCLUSION

For the foregoing reasons and those set forth in the supporting materials accompanying its application, BTA respectfully requests that the Bureau promptly grant BTA a blanket license to provide BGAN services in the U.S.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Cecelia Burnett, hereby certify that on this 27th day of April, 2006, I served a true copy of the foregoing Opposition of BT Americas Inc. by electronic mail upon the following:

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