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November 17, 2004

**Via HAND DELIVERY**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Written Ex Parte Presentation  
ARINC Application for Blanket Authority to Operate Aboard Aircraft Up To 1000  
Technically-Identical Transmit and Receive Mobile Earth Stations in the 11.7-12.2 and  
14.0-14.5 GHz Frequency Bands; File Nos. SES-AMD-20031223-01860 and SES-LIC-  
20030910-0126, Call Sign E030205**

Dear Ms. Dortch:

The Boeing Company ("Boeing") hereby responds to the October 28, 2004 submission of ARINC Incorporated ("ARINC") in the above-captioned proceeding.<sup>1</sup> In its latest filing, ARINC once again proffers inadequate information about its proposed SKYLink system and makes unsubstantiated allegations in an apparent attempt to divert attention from the real technical and operational issues presented by its application. It is this dribbling out of technical data by ARINC over an extended period of time that is to blame for any delays in processing its application, and any suggestion that Boeing's involvement in this proceeding was designed to

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<sup>1</sup> Letter from Carl R. Frank to Marlene H. Dortch, File Nos. SES-LIC-20030910-01261 and SES-AMD-20031223-01860 (filed October 28, 2004) ("*ARINC Submission*").

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thwart competition is entirely without foundation.<sup>2</sup> Indeed, ARINC itself has only recently asserted that its application is now complete.<sup>3</sup>

As the principal proponent of regulatory initiatives to facilitate the provision of Ku-band Aeronautical Mobile-Satellite Service ("AMSS") in the United States and around the world and as the licensee of the operational Connexion by Boeing<sup>SM</sup> system, Boeing is uniquely qualified to comment on regulatory and technical issues associated with ARINC's proposed SKYLink system. Boeing has submitted detailed technical comments in this proceeding noting the numerous deficiencies in the ARINC application and requesting further information necessary to analyze fully the operational characteristics and interference potential of the SKYLink system. These comments were filed over a period of months because each new submission made by ARINC provided additional technical information which, in turn, required further analysis and comment.

ARINC's application has been subject to no greater scrutiny than other AMSS applications, and it should be subject to no less scrutiny, particularly given the serious questions regarding the interference potential of the SKYLink system and ARINC's desire to operate the system in a manner that has not been studied by the international community or approved by the Commission. Inflammatory rhetoric, alliterative hyperbole and thespian exhortations notwithstanding, material and substantial questions remain outstanding regarding the operational and interference characteristics of the SKYLink system. Boeing's concerns and ARINC's responses – such as they are – now comprise the formal record in this proceeding from which the Bureau can make a more informed licensing determination.

Boeing and ARINC have fundamentally different views regarding the AMSS operational requirements embodied in Recommendation ITU-R M.1643, as well as Commission licensing precedent, particularly with respect to the need for positive control of aircraft earth station ("AES") transmissions and the level of protection afforded to primary Ku-band Fixed-Satellite

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<sup>2</sup> ARINC's attempt to ascribe ill motives to the coincidental filing of Boeing's last technical submission and ARINC's coordination agreements on September 30, 2004 is equally insupportable. *See id.* a 2; *see also* Letter from Philip L. Malet and Carlos M. Nalda to Marlene H. Dortch, File Nos. SES-LIC-20030910-01261 and SES-AMD-20031223-01860 (filed September 30, 2004). Not only was the timing of the filing generally consistent with the periods between Boeing's previous technical submissions but, as ARINC is well aware, the electronic service copies of both filings were exchanged within approximately thirty minutes at the close of business on September 30<sup>th</sup>. Boeing had already filed its technical analysis prior to learning of the ARINC submission, and ARINC's suggestion to the contrary is simply erroneous.

<sup>3</sup> ARINC Submission at 1.

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Service operations. Boeing believes that positive control is required by Recommendation ITU-R M.1643 and that interference must be controlled to a level of 99.99% under worst-case conditions with a 1 dB margin, in part, because the international community relied upon that level (as well as positive control) in adopting the secondary AMSS allocation in the 14.0-14.5 GHz band at the 2003 World Radiocommunication Conference ("WRC-03"). If the Bureau concludes otherwise and permits the use of contention protocols and a more lenient interference control standard in the context of granting the SKYLink application, it must be prepared to allow other Ku-band AMSS systems to operate according to these less stringent standards.

In any event, if the Bureau decides to authorize the proposed SKYLink AMSS system, ARINC's license should be conditioned on compliance with internationally adopted AMSS operational standards (Recommendation ITU-R M.1643) and verification of all SKYLink system operational and control parameters prior to commencement of commercial operations. ARINC erroneously argues that it should be exempt from such a requirement because "the ITU and the Commission each have allocated the 14.0-14.5 GHz band to the AMSS (Earth-to-space) on a secondary basis. Accordingly, the rationale for the waiver, and for the concomitant reporting requirements have vanished."<sup>4</sup> AMSS system performance verification has nothing whatsoever to do with the prior absence of an AMSS spectrum allocation or need for a waiver. Rather, the verification condition was imposed to ensure that the proposed AMSS system would be able to comply with the terms and conditions of its authorization.<sup>5</sup> This is why the Bureau imposed a similar performance verification requirement in authorizing the operation of Boeing's reflector antenna AESs in November 2003, after the secondary AMSS allocation was adopted by WRC-03 and implemented domestically by the Commission.<sup>6</sup>

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<sup>4</sup> See *id.* at 8.

<sup>5</sup> See The Boeing Company Application for Blanket Authority to Operate Up to Eight Hundred Technically Identical Transmit and Receive Mobile Earth Stations Aboard Aircraft in the 14.0-14.5 GHz and 11.7-12.2 GHz Frequency Bands, *Order and Authorization*, File No. SES-LIC-20001204-02300, DA 01-3308 (rel. Dec. 21, 2001) at ¶ 19(h)(5).

<sup>6</sup> See The Boeing Company, Radio Station Authorization, File No. SES-MOD-20030512-00639 (granted Nov. 14, 2003) at Special Condition 5948; see also Amendment of Parts 2, 25, and 87 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Between 28 MHz and 36 GHz and to Otherwise Update the Rules in this Frequency Range, ET Docket No. 02-305, FCC 03-269 (rel. Nov. 4,

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Any questions regarding this submission may be directed to the undersigned.

Respectfully submitted,



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Carlos M. Nalda  
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**Attachment**

cc : **Thomas Tycz**  
**Fern Jarmulnek**  
**Andrea Kelly**  
**Shabnam Javid**  
**Arthur Lechtman**

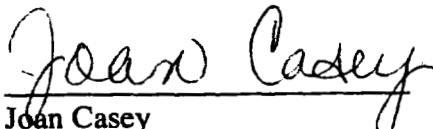
**Carl R. Frank**  
*Counsel to ARINC Incorporated*

**CERTIFICATE OF SERVICE**

I, Joan Casey, hereby certify that a copy of the foregoing Written Ex Parte Presentation of The Boeing Company was served via hand delivery upon the following:

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John Bartlett  
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this 17th day of November, 2004.

  
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