

September 14, 2007

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

**Re: Petition to Hold in Abeyance Application of iPass, Inc.
File No. SES-LIC-20070712-00933 (Call Sign E070144)**

Dear Ms. Dortch:

Mobile Satellite Ventures Subsidiary LLC ("MSV") hereby files its Petition to Hold in Abeyance ("Petition") the above-referenced application of iPass, Inc. to operate mobile earth stations with the Inmarsat 4F2 satellite. As discussed herein, certain information provided in the attached Petition should be treated as confidential and is being provided only to parties permitted to review that material.¹ Pursuant to the Commission's rules, a redacted copy of this filing, along with a copy of this transmittal letter, is being filed under separate cover for public inspection and is being served on all parties to this proceeding.

In conformity with Section 0.459(b) of the Commission's rules, MSV submits the following:

47 C.F.R. § 0.459(b)(1) -- Identification of the specific information for which confidential treatment is sought

MSV requests confidential treatment of information in the Petition relating to the *Mexico City Memorandum of Understanding* and the on-going international L band frequency coordination process which is confidential to the parties to that coordination, which includes the Commission, MSV, and Inmarsat.² When considering other applications to use Inmarsat

¹ Pursuant to procedures adopted by the Commission on October 17, 2001, the attached non-redacted, confidential submission is not filed in a sealed envelope. See "FCC Announces Changes in Filings Procedures," *Public Notice*, DA 01-2430 (October 17, 2001). MSV understands that, as stated in the *Public Notice*, Commission staff will place the confidential submission in an envelope marked "Confidential" upon receipt.

² See *Memorandum of Understanding for the Intersystem Coordination of Certain Geostationary Mobile Satellite Systems Operating in the Bands 1525-1544/1545-1559 MHz and 1626.5-1646.5/1646.5-1660.5 MHz*, Mexico City, Mexico, 18 June 1996.

satellites in the United States, the Commission has acknowledged the confidentiality of this information and has afforded it confidential treatment.³

47 C.F.R. § 0.459(b)(2) -- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission

This information is being filed in MSV's Petition regarding the above-referenced application.

47 C.F.R. § 0.459(b)(3) -- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged

As the Commission has acknowledged, the *Mexico City Memorandum of Understanding* and related coordination documents are confidential.⁴

47 C.F.R. § 0.459(b)(4) -- Explanation of the degree to which the information concerns a service that is subject to competition

The information contained herein concerns the market for wireless services, in which MSV faces competition from other MSS providers as well as from terrestrial wireless operators.

47 C.F.R. § 0.459(b)(5) -- Explanation of how disclosure of the information could result in substantial competitive harm

Disclosure of the information for which confidential treatment is sought would result in violation of the *Mexico City Memorandum of Understanding*.

47 C.F.R. § 0.459(b)(6) -- Identification of any measures taken by the submitting party to prevent unauthorized disclosure

Disclosure to third parties of the information for which confidential treatment is sought has been strictly pursuant to non-disclosure agreements.

47 C.F.R. § 0.459(b)(7) -- Identification of whether the information is available to

³ See *COMSAT Corporation et al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661, ¶ 111 (2001) ("*COMSAT Order*") ("The Mexico City Agreement and related coordination documents, such as minutes of coordination meetings, are considered confidential.").

⁴ *Id.*

**the public and the extent of any previous disclosure of
the information to third parties**

The information for which confidential treatment is sought is not publicly available. Disclosure to third parties of the information for which confidential treatment is sought has been strictly pursuant to non-disclosure agreements.

47 C.F.R. § 0.459(b)(8) -- Justification of the period during which the submitting party asserts that material should not be available for public disclosure

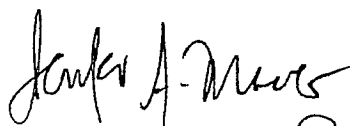

The information for which confidential treatment is sought should remain confidential indefinitely or until the parties to the *Mexico City Memorandum of Understanding* agree that it can be made publicly available.

47 C.F.R. § 0.459(b)(9) -- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted

N/A.

Please contact the undersigned with any questions.

Very truly yours,


Jennifer A. Manner 

cc: see attached service list

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of) File No.
)
iPass, Inc.) SES-LIC-20070712-00933 (Call Sign E070144)
Application for Blanket License to Operate)
Mobile Earth Terminals with Inmarsat 4F2)
at 52.75°W)

PETITION TO HOLD IN ABEYANCE

Bruce D. Jacobs
Tony Lin
Paul A. Cicelski
**PILLSBURY WINTHROP
SHAW PITTMAN LLP**
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000

Jennifer A. Manner
Vice President, Regulatory Affairs
**MOBILE SATELLITE VENTURES
SUBSIDIARY LLC**
10802 Parkridge Boulevard
Reston, Virginia 20191
(703) 390-2700

September 14, 2007

Summary

The International Bureau ("Bureau") should hold in abeyance the application filed by iPass, Inc. ("iPass") to operate terminals in the United States with an uncoordinated Inmarsat satellite unless and until the satellite has been coordinated. Inmarsat's attempt to operate its new satellite and to provide new services without first coordinating them threatens the operation of the current MSS systems of Mobile Satellite Ventures Subsidiary LLC ("MSV") and Mobile Satellite Ventures (Canada) Inc. ("MSV Canada"), including critical services provided to public safety users, and creates uncertainty for the development of their next generation systems, which are poised to revolutionize the MSS industry.

In evaluating whether the grant of an earth station application to use a non-U.S. licensed satellite will serve the public interest, *DISCO II* requires the Bureau to assess whether the satellite will cause interference to U.S.-licensed systems and whether there is sufficient spectrum available to permit operation of the foreign-licensed system in the United States. If there is an international coordination agreement in place between the United States and the licensing administration for the foreign satellite, the Commission can generally be assured that permitting the foreign-licensed satellite to serve the United States will not raise concerns regarding interference or spectrum availability. But this is not the case in the L band because there is no international coordination agreement pertaining to the operation of Inmarsat 4F2. While the Mexico City Memorandum of Understanding contemplates the operation of replacement satellites, Inmarsat 4F2 is technically different than Inmarsat-3 which precludes it from being considered a replacement.

In the absence of an international L band coordination agreement covering the Inmarsat 4F2 satellite, there is no basis for the Bureau to conclude that permitting the satellite to serve the United States will not raise concerns regarding interference and spectrum availability. There are

three kinds of interference presented by Inmarsat's new satellite that neither Inmarsat nor iPass has addressed.

The first is interference on spectrum that MSV and MSV Canada have coordinated for their own use and loaned temporarily to Inmarsat, and that Inmarsat now refuses to relinquish. Inmarsat's current operations on this loaned-but-recalled spectrum are blocking MSV's operations *today* and grant of the instant application, to the extent it authorizes Inmarsat operations on the loaned-but-recalled spectrum, would do the same.

The second kind of interference results from the fact that Inmarsat 4F2 is technically different than the Inmarsat-3 satellites, and its technical characteristics are in no way contemplated in the 1999 Spectrum Sharing Arrangement among the L band operators or any other Agreement or Understanding between the United States and Inmarsat's licensing administration, the United Kingdom. The available evidence, which includes the Commission's own review of the satellite's characteristics and Inmarsat's own characterization of the satellite's susceptibility, indicates that Inmarsat 4F2 cannot operate and provide the proposed new services without causing interference to and receiving interference from other systems in the L band.

The third kind of interference is that threatened by Inmarsat's claim that it is entitled, contrary to its earlier commitments to operate only on spectrum it had coordinated pursuant to the 1999 Spectrum Sharing Arrangement, to operate wherever it chooses in the L band. Inmarsat has never explained how Inmarsat 4F2 in actual practice could possibly operate on all L band frequencies without resulting in mutual interference among L band operators.

The Commission's most important role is that of spectrum "traffic cop," enforcing reasonable rules of the road, in this case that new satellites must be coordinated before they are permitted to provide United States service. Such enforcement is entirely within its authority

under the *WTO Basic Telecom Agreement* and *DISCO II* principles, and is consistent with Commission precedent. While in some cases the Bureau is reasonably able to conclude that an applicant will be able to complete coordination before operating or will be able to operate on a non-interference basis until coordination is complete, that is not the case here. Given the evidence of interference that Inmarsat 4F2 will cause and receive, it is not a solution for the Bureau to grant applications to operate with Inmarsat 4F2 now, hope that a coordination agreement can be reached in the future, and that in the interim there will not be greater interference among L band systems that embroils the Commission and the operators in interference disputes. As the current impasse in the L band indicates, a *post hoc* approach to coordination disserves the public interest and impedes the full and efficient use of L band spectrum. Accordingly, the iPass application should be held in abeyance until an L band coordination agreement is concluded.

To the extent the Bureau nonetheless grants the application now prior to a coordination agreement, the Bureau should attach certain conditions intended to mitigate the risk of harmful interference to L band users and to promote more efficient use of L band spectrum. First, iPass should not be permitted to operate on L band frequencies that were loaned to Inmarsat by MSV or MSV Canada. Second, operators of L band satellites serving the United States should make best efforts to coordinate access to L band spectrum in a manner that maximizes the potential for offering broadband services, including rebanding into minimum 5 MHz assigned band segments for each satellite system. Third, until Inmarsat has completed coordination of its uncoordinated satellites with all L band operators serving the United States, any grant of authority for Inmarsat operations should be on a non-interference, unprotected basis with respect to MSV's previously coordinated satellites and replacement satellites.

Lack of international coordination notwithstanding, the iPass application raises additional issues that warrant further scrutiny, including (i) whether Inmarsat 4F2 qualifies as a replacement satellite; (ii) the failure of Inmarsat 4F2 to comply with the Bureau's interpretation of the Commission's longitudinal station keeping rule; and (iii) the national security and law enforcement concerns presented by operation of terminals in the United States in conjunction with gateway earth stations located overseas.

Table of Contents

Summary	i
Table of Contents	v
Background	1
Discussion	9
I. The Bureau Should Hold the iPass Application in Abeyance Until the Conclusion of an L Band Coordination Agreement	9
II. The iPass Application Raises Additional Issues That Warrant Further Scrutiny	23
Conclusion	27

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the matter of)	
)	File No.
iPass, Inc.)	SES-LIC-20070712-00933 (Call Sign E070144)
Application for Blanket License to Operate)	
Mobile Earth Terminals with Inmarsat 4F2 at)	
52.75°W)	

PETITION TO HOLD IN ABEYANCE

Mobile Satellite Ventures Subsidiary LLC (“MSV”)¹ hereby files this Petition to Hold in Abeyance the above-referenced application filed by iPass, Inc. (“iPass”) for a Title III blanket license to operate terminals in the United States with an uncoordinated Inmarsat-4 L band satellite.² The International Bureau (“Bureau”) should not grant the application unless and until the new Inmarsat satellite has been coordinated.

Background

MSV. MSV is the entity authorized by the Commission in 1989 to construct, launch, and operate a United States MSS system in the L band.³ MSV’s licensed satellite (AMSC-1 or MSAT-2) was launched in 1995, and MSV began offering service in 1996. MSV is also the

¹ As one of the L band Mobile Satellite Service (“MSS”) operators in North America which could be subjected to harmful interference from grant of this application, MSV is a “party in interest” with standing to file this Petition. *See* 47 U.S.C. § 309(d)(1). Moreover, MSV has standing as a competitor in the MSS market. *See FCC v. Sanders Brothers Radio Station*, 309 U.S. 475, 477 (1940).

² iPass Inc., Application, File No. SES-LIC-20070712-00933 (Call Sign E070144) (July 10, 2007) (“*iPass Application*”). The *iPass Application* was placed on public notice on August 15, 2007. *See* Public Notice, Report No. SES-00954 (August 15, 2007).

³ *Order and Authorization*, 4 FCC Rcd 6041 (1989); *remanded by Aeronautical Radio, Inc. v. FCC*, 928 F.2d 428 (D.C. Cir. 1991); *Final Decision on Remand*, 7 FCC Rcd 266 (1992); *aff’d, Aeronautical Radio, Inc. v. FCC*, 983 F.2d 275 (D.C. Cir. 1993); *see also AMSC Subsidiary Corporation, Memorandum Opinion and Order*, 8 FCC Rcd 4040 (1993).

successor to TMI Communications and Company, Limited Partnership (“TMI”) with respect to TMI’s provision of L band MSS in the United States. Today, MSV offers a full range of land, maritime, and aeronautical satellite services, including voice and data, using both its own U.S.-licensed satellite and the Canadian-licensed L band satellite (MSAT-1) licensed to Mobile Satellite Ventures (Canada) Inc. (“MSV Canada”). In May 2005, the Bureau licensed MSV to launch and operate a replacement L band MSS satellite at 101°WL (called “MSV-1”).⁴

MSV has made substantial progress on the construction of MSV-1. In the short time since the Bureau authorized the satellite, it has found that MSV has executed a satellite construction contract,⁵ completed critical design review of the satellite,⁶ and most recently commenced physical construction of MSV-1.⁷ Under the present construction schedule, MSV expects to launch MSV-1 in 2009.

The next-generation satellites will be among the largest and most powerful commercial satellites ever built. Each satellite’s primary antenna will be twice as large as any previous commercial satellite, and the satellites will have significantly more power available over the U.S. compared to any other MSS system providing or seeking to provide service to the United States. The satellites will be used to provide advanced mobile broadband services to devices that are virtually identical to cell phone handsets in terms of aesthetics, cost, and functionality, in stark contrast to the laptop-sized Inmarsat terminals at issue here. MSV is ahead of the Commission’s milestone schedule and is planning to launch these satellites beginning in 2009. Among the keys

⁴ See *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-1492 (May 23, 2005) (“*MSV-1 Order*”).

⁵ See Public Notice, Report No. SAT-00356, DA 06-918 (April 21, 2006).

⁶ See Public Notice, Report No. SAT-00456, DA 07-2892 (June 29, 2007).

⁷ See Public Notice, Report No. SAT-00465, DA 07-3557 (August 10, 2007).

to exploiting this advancement in satellite technology are regulatory certainty, protection from harmful interference, and access to contiguous spectrum blocks. Harmful interference (such as that presented by the operation of uncoordinated satellites, including Inmarsat 4F2, and Inmarsat's refusal to honor its prior coordination commitments, including the return of the loaned spectrum) and inefficient spectrum assignments (such as that presented by the current assignment of non-contiguous slivers in the L band) will only impede the development of these MSV next-generation networks and their benefits for consumers.

Inmarsat. Inmarsat is a provider of MSS in the L band and is licensed by the United Kingdom. Inmarsat was established in 1976 as a legal monopoly owned largely by foreign government post, telephone, and telegraph ("PTT") administrations. From its base as a monopoly, Inmarsat gradually built a fleet of satellites to provide global service, primarily to large, oceangoing vessels. As the first entrant into the MSS market and as a result of its ties to foreign governments, Inmarsat has developed a dominant share of the MSS market.⁸ Inmarsat currently operates a fleet of eight in-orbit second generation (Inmarsat-2) satellites and third generation (Inmarsat-3) satellites.⁹ Inmarsat has also launched two fourth-generation (Inmarsat-4) satellites and is in the process of constructing and launching its third Inmarsat-4 satellite. The

⁸ See Inmarsat plc, Annual Report and accounts 2006 ("Inmarsat 2006 Annual Report"), at ifc ("Inmarsat is the world's leading provider of a comprehensive portfolio of global mobile satellite communications services for use on land, at sea and in the air."), available at <http://www.inmarsat.com/About/Investors/Reports.aspx?language=EN&textonly=False> (last visited June 14, 2007); Inmarsat Group Limited, 2007 Form 20-F ("Inmarsat 2006 Form 20-F"), at 24 ("We are the leading provider of global mobile satellite communications services, providing data and voice connectivity to end-users worldwide through our global satellite and ground infrastructure network."), at 27 ("We are the leading global provider of mobile satellite communications services to the maritime sector."), available at <http://www.sec.gov/Archives/edgar/data/1291396/000119312507094923/d20f.htm> (last visited June 14, 2007).

⁹ See Inmarsat 2006 Form 20-F, at 31.

Inmarsat-4 satellites support the Broadband Global Area Network ("BGAN") terminals at issue here. These terminals use wider bandwidth carriers than terminals operating with Inmarsat-3 satellites and may require larger guard bands to protect other L band operators. Inmarsat has not provided the required technical information in the record of this or any other proceeding relating to the Inmarsat 4F2 satellite needed for MSV to determine whether, nor has Inmarsat discussed with other L band operators how, the Inmarsat-4 satellites will avoid causing or suffering interference with respect to other L band satellites.

L band coordination process. Spectrum in the L band in North America is shared primarily among five operators: MSV, MSV Canada, Inmarsat, and Mexican and Russian systems.¹⁰ The five Administrations that license these systems reached an agreement in 1996 for a framework for future coordination of the L band spectrum in North America, called the Mexico City Memorandum of Understanding ("*Mexico City MoU*").¹¹ Under the *Mexico City MoU*, the L band operators are each assigned certain specific frequencies to use on their specific satellites through multi-party operator agreements, called Spectrum Sharing Arrangements ("SSA"). Under the 1999 SSA, which was based on operation of narrowband carriers only, spectrum is divided among the five L band operators in largely non-contiguous slivers. The *Mexico City MoU* and the subsequent SSAs have never contemplated the operation of satellites such as Inmarsat 4F2 at any orbital locations or the provision of L band traffic requiring bandwidth wider than 30 kHz (wideband carriers).

¹⁰ The L band spectrum in North America is also shared with Japan's MTSAT satellite, but only in and near the Pacific Ocean.

¹¹ See *Memorandum of Understanding for the Intersystem Coordination of Certain Geostationary Mobile Satellite Systems Operating in the Bands 1525-1544/1545-1559 MHz and 1626.5-1646.5/1646.5-1660.5 MHz*, Mexico City, Mexico, 18 June 1996 ("*Mexico City MoU*").

Under the *Mexico City MoU*, the L band operators are required to ensure that spectrum is

[REDACTED]

Since 1999, all the L band operators, only recently with the exception of Inmarsat, have been operating on a non-interference basis using spectrum assignments listed in the 1999 SSA for specific satellites, orbital locations, earth stations, services (carrier types and emission levels), satellite antenna beams and the associated main beam and sidelobe roll-off, and service areas. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] as is the statement it made in its April 2005 securities filing that “the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999.”¹³

¹² [REDACTED] Indeed, even more recently, the Commission was under the impression that “the parties continue to operate under the 1999 assignments pending further negotiations.” See *Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962, n. 144 (February 10, 2003) (“ATC Order”).

¹³ See Inmarsat Global Ltd., Form 20-F (April 29, 2005) (“Inmarsat April 2005 Form 20-F”), at 48, available at <http://www.sec.gov/Archives/edgar/data/1291396/000104746905012474/a2156552z20-f.htm> (last visited June 14, 2007).

Despite these commitments, Inmarsat has continued to use certain L band frequencies that were coordinated for MSV and MSV Canada, temporarily loaned to Inmarsat, and then subsequently recalled. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MSV and MSV Canada notified Inmarsat over three years ago that they needed to begin operations on this spectrum, but Inmarsat has refused to return the spectrum.¹⁴ MSV and MSV Canada need access to this spectrum for their current systems as well as to implement their aggressive plans to begin testing and deploying their interim-generation and next-generation integrated satellite-terrestrial networks. While MSV believes that it has the unequivocal right to use these frequencies, it has refrained from doing so in order to protect Inmarsat's customers, which Inmarsat is cynically using as hostages.

iPass Application. In November 2001, the Commission authorized various entities to provide service in the United States using Inmarsat-3 satellites.¹⁵ The Commission granted the applications subject to the condition that operations be on a non-interference basis, using only those frequencies coordinated for Inmarsat-3 satellites under the 1999 SSA. *See COMSAT Order* ¶ 115(c)-(d).

¹⁴ Inmarsat has acknowledged its refusal to return the loaned spectrum in a filing with the U.S. Securities and Exchange Commission ("SEC"). *See* Inmarsat April 2005 Form 20-F, at 48.

¹⁵ *See COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Red 21661 (2001) ("*COMSAT Order*").

In its above-captioned application, iPass seeks a Title III blanket license to operate BGAN terminals in the United States with an uncoordinated Inmarsat-4 satellite that is located at 52.75°W (called "Inmarsat 4F2"). *iPass Application*, Attachment A at 1. iPass claims that this satellite is a replacement for an Inmarsat-3 satellite located at 54°W. *Id.* To support this claim, iPass alleges that the Inmarsat 4F2 serves the same geographic area as the Inmarsat-3 satellite at 54°W and that the BGAN terminals operating with Inmarsat 4F2 use the same frequencies that the Commission in the *COMSAT Order* authorized terminals to use with Inmarsat-3 satellites. *Id.*, Attachment A at 1-2.

iPass states that Inmarsat 4F2 operates with $\pm 0.1^\circ$ East-West station-keeping, noting that the Commission's rule requiring Fixed Satellite Service ("FSS") satellites to operate with $\pm 0.05^\circ$ East-West station-keeping does not apply to MSS satellites. *iPass Application*, Attachment A at 43. iPass explains that the gateway earth stations operating with Inmarsat 4F2 are located in the Netherlands and Italy. *Id.*, Attachment A at 3. iPass states that it will negotiate an agreement with the Department of Justice ("DOJ"), the Federal Bureau of Investigation ("FBI"), and the Department of Homeland Security ("DHS") to address the national security and law enforcement concerns presented by operation of the BGAN terminals in the United States in conjunction with gateway earth stations located overseas. *Id.*, Exhibit II at 4.

On July 16, 2007, iPass filed for Special Temporary Authority ("STA") to operate 4000 BGAN terminals with the uncoordinated Inmarsat 4F2 satellite while its application for permanent authority was pending.¹⁶ MSV opposed this request because of the harmful interference that will occur, including to MSV's public safety customers, and because iPass

¹⁶ See *iPass, Inc., Request for STA*, File No. SES-STA-20070716-00944 (Call Sign E070144) (July 16, 2007).

failed to demonstrate any “extraordinary circumstances” justifying grant of its request.¹⁷

Although the Bureau has not acted on the iPass STA, it has granted similar STAs by other operators, subject to a number of very important and appropriate conditions that are essential to help mitigate the harmful interference to customers of other L band MSS operators from Inmarsat’s uncoordinated BGAN operations.¹⁸ Among other things, the conditions (i) preclude operators from using the loaned frequencies; (ii) require that operations pursuant to the STA be conducted on an unprotected basis; (iii) mandate that certain EIRP densities cannot be exceeded; (iv) ensure that adequate guard bands are provided between the band edges of Inmarsat’s carriers and the band edges of MSV’s operations in order to preclude the possibility of unacceptable interference to MSV’s operations; (v) make clear that grant of the STA is not based on a finding that Inmarsat’s L band operations are consistent with operation on a non-interference basis; and (vi) specify that grant of the STA is without prejudice to any future determination that the Commission may make as to whether Inmarsat’s L band operations are consistent with operation on a non-interference basis.¹⁹

¹⁷ See Mobile Satellite Ventures Subsidiary LLC, Petition to Deny, File No. SES-STA-20070716-00944 (Call Sign E070144) (August 20, 2007).

¹⁸ See, e.g., Thrane & Thrane Airtime Ltd., Stamp Grant, File No. SES-STA-20060522-00857 (Call Sign E060179) (June 30, 2006).

¹⁹ In related proceedings, MSV has asked the Bureau to clarify these conditions. See Mobile Satellite Ventures Subsidiary LLC, Petition for Clarification, File No. SES-STA-20060310-00419 et al. (June 12, 2006) (attaching Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 et al. (May 26, 2006)).

Discussion

I. THE BUREAU SHOULD HOLD THE iPASS APPLICATION IN ABEYANCE UNTIL THE CONCLUSION OF AN L BAND COORDINATION AGREEMENT

In *DISCO II*, the Commission established a framework for evaluating whether the grant of an earth station application to use a non-U.S. licensed satellite to provide service in the United States will serve the public interest.²⁰ Among other things, the Commission will assess whether the foreign-licensed satellite will cause interference to U.S.-licensed systems and whether there is sufficient spectrum available to permit the operation of the foreign-licensed system in the United States. *DISCO II* ¶ 150. The Commission found in *DISCO II* that this exercise of spectrum management authority is consistent with the Chairman's Note to the World Trade Organization ("WTO") Basic Telecommunications Agreement,²¹ which states that WTO Members may exercise their domestic spectrum and frequency management policies when considering whether to allow foreign-licensed satellites to service the U.S. market.²²

²⁰ See *Amendment of the Commission's Regulatory Policies To Allow Non-U.S.-Licensed Space Stations To Provide Domestic and International Satellite Service in the United States, Report and Order*, IB Docket No. 96-111, 12 FCC Rcd 24094 (1997) ("*DISCO II*").

²¹ Fourth Protocol to the GATS (April 30, 1996), 36 I.L.M. 354 (1997) ("WTO Basic Telecommunications Agreement").

²² See *Chairman of the World Trade Organization Group on Basic Telecommunications, Chairman's Note, Market Access Limitations on Spectrum Availability*, 36 I.L.M. at 372 ("under the GATS each Member has the right to exercise spectrum/frequency management"); *Space Imaging, LLC, Declaratory Order and Order and Authorization*, DA 05-1940, ¶ 18 (Chief, International Bureau, July 6, 2005) ("In *DISCO II*, the Commission determined that, given the scarcity of orbit and spectrum resources, it would consider spectrum availability as a factor in determining whether to allow a foreign satellite to serve the United States. This is consistent with the Chairman's Note to the WTO Basic Telecom Agreement, which states that WTO Members may exercise their domestic spectrum/frequency management policies when considering foreign entry. Thus, in *DISCO II*, we stated that when grant of access would create interference with U.S.-licensed systems, we may impose technical constraints on the foreign system's operations in the United States or, when conditions cannot remedy the interference, deny access.") (citing *DISCO II*).

If there is an international coordination agreement in place between the United States and the licensing administration for the foreign satellite, the Commission can generally be assured that permitting the foreign licensed satellite to serve the United States will not raise concerns regarding interference or spectrum availability. This is not the case in the MSS L band because there is no coordination agreement among the L band operators covering Inmarsat 4F2 at 52.75°W or any other orbital location, or covering its technical and operational parameters.²³

While Inmarsat claim that Inmarsat 4F2 is a replacement satellite under the Commission's satellite processing rules, which is doubtful, it certainly does not qualify as a replacement satellite under the *Mexico City MoU*. [REDACTED]

[REDACTED] (i) it is not replacing another satellite;²⁴ (ii) it has much larger L band on-board power and will cause greater interference to other L band operators (*see infra* pages 14-17); and (iii) it will require greater protection from other L band operators (*see infra* pages 17-19). In addition to these and other interference concerns, iPass states that Inmarsat 4F2 will have inefficient L

²³ In the *Outerlink* proceeding, Inmarsat explained that operation of a satellite or services prior to international coordination is a significant concern: "Inmarsat opposes the grant of Outerlink's Application, unless and until the Outerlink service is coordinated between Inmarsat and MSV. The problem here is simple. Inmarsat and MSV have not coordinated the provision of Outerlink's service." *See* Letter from John P. Janka, Counsel for Inmarsat, to Mr. Thomas S. Tycz, FCC, File No. SES-LIC-19980415-00436 (April 23, 2002), at 1.

²⁴ Inmarsat has relocated the Inmarsat-3 satellite that Inmarsat 4F2 is allegedly replacing to 142°W where it will continue to operate. *See, e.g.*, Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20051216-01760 et al (December 16, 2005).

band global beams,²⁵ [REDACTED]²⁶ Until coordination is complete, Inmarsat 4F2 is simply a rogue satellite that has no internationally recognized rights.

While the Commission has in the past licensed earth stations to operate with L band satellites on a non-interference basis in the absence of a coordination agreement, the spectrum management issues presented now are fundamentally different.²⁷ With respect to the MSAT-1 and Inmarsat-3 satellites, they had already been coordinated in the past for narrowband carriers and were in the ITU Master Registry, unlike the Inmarsat 4F2 satellite at issue here. The operators discussed the technical parameters of their respective systems, applied those parameters in extensive calculations of potential interference, and developed an initial sharing plan for interference-free operation by which, even after the annual meetings reached a stalemate, the operators agreed to abide. *See supra* note 11. The Commission and the L band operators could be reasonably assured that the systems would be operated on a non-interference basis, provided the operators adhered to the frequency assignments detailed in the 1999 SSA.²⁸

²⁵ *iPass Application*, Attachment A at 12-13, 16-17.

²⁶ [REDACTED]

²⁷ *See COMSAT Order* (authorizing Inmarsat satellites to provide service in the United States on a non-interference basis after concluding that operation pursuant to such a condition was possible); *Applications of SATCOM Systems, Inc., TMI Communications and Company, LP, et al., Order and Authorization*, 14 FCC Rcd 20798 (1999), *aff'd sub nom. AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154 (D.C. Cir. 2000) (authorizing Canadian-licensed satellite to provide service in the United States on a non-interference basis after concluding that operation pursuant to such a condition was possible).

²⁸ The Bureau's decision to license MSV's next-generation satellite is consistent with the previous Commission decisions licensing the MSAT-1 and Inmarsat-3 satellites. *See MSV-1 Order*; *see also Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-50 (January 10, 2005) ("*MSV-SA Order*"). In the cases of MSV-1 and MSV-SA, no entity claimed that the satellites would cause interference, thus it was reasonable for the Bureau to conclude that harmful interference would not result. Moreover, at licensing, the MSV-1 and MSV-SA

In this case, however, there is no similar arrangement which defines the frequency assignments for Inmarsat 4F2. Inmarsat is proposing to operate a satellite that is not covered by any coordination agreement, is largely different from a technical perspective from any satellite covered by the previous coordination agreement, has never been analyzed by other L band operators, and (according to Inmarsat) will not accept any limitations on the frequencies it will use for operation.

As the Bureau demonstrated in previous cases, it will not authorize an uncoordinated satellite to provide service if there is evidence that interference will result, regardless of whether the satellite is domestic or foreign-licensed.²⁹ In those cases, the Bureau refused to permit the satellites to operate until after a coordination agreement had been reached with affected operators. Indeed, the Bureau has explained that imposing “a requirement that the [uncoordinated] satellite cannot operate at all will ensure that the satellite does not cause harmful interference to other satellites while coordination is being completed.”³⁰ As proponents of

satellites were still years away from launch. Where launch of a satellite is years away, it is reasonable for the Commission to conclude that any interference issues that might arise will be resolved through coordination prior to actual operation.

²⁹ See Letter from Thomas S. Tycz, FCC, to Joseph A. Godles, Counsel for PanAmSat, File No. SAT-STA-19980902-00057 (September 15, 1998) (refusing to permit PanAmSat to operate C band payload until after coordinating with affected Administrations) (“*PanAmSat Order*”); *Loral Orion Services, Inc., Order and Authorization*, DA 99-2222, 14 FCC Rcd 17665, ¶ 10 (October 18, 1999) (refusing to permit Loral to provide commercial service because coordination had not yet been completed and harmful interference would occur absent coordination); *BT North America Inc., Order*, DA 00-162, 15 FCC Rcd 15602 (February 1, 2000) (granting earth station applications to operate with foreign-licensed satellite only after foreign-licensed satellite operator reached a coordination agreement with affected U.S.-licensed operator); see also *AfriSpace, Inc., Order and Authorization*, DA 06-4, ¶ 12 (Chief, International Bureau, January 3, 2006) (“[T]he Commission will not authorize new systems that would cause interference to licensed U.S. systems.”); *MSV-SA Order*, ¶ 8 (stating that the Commission “will not consider applications for new systems where the new system’s operations would cause interference to licensed systems”).

³⁰ *Loral Orion Services, Inc., Order*, DA 99-2221, 14 FCC Rcd 18878, ¶ 18 (October 18, 1999).

providing service in the United States with an uncoordinated satellite, the burden falls squarely on Inmarsat and iPass to demonstrate that Inmarsat can operate its uncoordinated satellite on a non-harmful interference basis pending the conclusion of a coordination agreement. Inmarsat and iPass have failed to meet this burden.

Interference resulting from Inmarsat's continued use of loaned-but-recalled spectrum that it agreed to return to MSV and MSV Canada. The first type of interference is presented by Inmarsat's proposed use of frequencies on Inmarsat 4F2 that have been coordinated for use by MSV and MSV Canada under the 1999 SSA, then loaned to Inmarsat on a temporary basis, and that Inmarsat now refuses to relinquish or to refrain from using on Inmarsat 4F2. In granting the STAs of other entities to operate BGAN terminals with the uncoordinated Inmarsat 4F2 satellite, the Bureau specifically precluded those entities from using these loaned frequencies.³¹ MSV and MSV Canada need access to this loaned-but-recalled spectrum to implement their aggressive plans to deploy an interim-generation integrated satellite-terrestrial system. Inmarsat's current use of these frequencies also prevents MSV and MSV Canada from using those frequencies to test and deploy their new, hybrid systems, and limits their ability to develop new, bandwidth-intensive public safety services. These are real, concrete examples of interference that is already occurring today and that Inmarsat proposes to continue on Inmarsat 4F2.

Under the terms of the *COMSAT Order*, earth stations accessing Inmarsat satellites in the United States are permitted to operate only on a non-interference basis *and* only on those

³¹ See, e.g., Thrane & Thrane Airtime Ltd., Stamp Grant, File No. SES-STA-20060522-00857 (Call Sign E060179) (June 30, 2006), at ¶ 3. The Bureau has defined "loaned" L band frequencies as "those bandwidth segments that were loaned to Inmarsat by MSV and MSV Canada, either as part of the Revised 1999 Spectrum Sharing Arrangement (October 4, 1999), or later as bilateral arrangements between Inmarsat and MSV and Inmarsat and MSV Canada." See, e.g., Stratos Communications, Inc., Stamp Grant, SES-STA-20051216-01760 et al., at ¶ 3 (January 18, 2006).

frequencies “coordinated for” Inmarsat in the “most recent annual L-Band operator-to-operator agreement,” which is a reference to the 1999 SSA. See *COMSAT Order* ¶ 115(c)-(d). The Commission granted these applications in 2001, well after the last SSA had been agreed to in 1999. Thus, the Commission was aware that a new SSA had not been negotiated since 1999. It also was aware that Inmarsat had [REDACTED]

[REDACTED]³² Thus, the Commission precluded earth stations from using portions of the L band that have not been “coordinated for” Inmarsat in the 1999 SSA, including spectrum that may have been temporarily loaned to Inmarsat but subsequently recalled by the lenders.³³ This condition is simple and straightforward, and should not be the subject of any reasonable dispute. Tellingly, neither Inmarsat nor the earth station licensees permitted to access Inmarsat satellites have ever sought reconsideration or clarification of this unambiguous condition. Moreover, the Commission has repeatedly confirmed that although a new SSA had not been negotiated since 1999, it continues to effectively govern the operations of L band MSS

³² [REDACTED] Inmarsat’s commitment to operate in accordance with the 1999 SSA was made in October 1999 simultaneous with the impasse in negotiating a new SSA. Until only recently, Inmarsat’s actions have demonstrated that it would continue to fulfill its commitment to comply with 1999 SSA. The Commission knew of Inmarsat’s outstanding commitment when it permitted Inmarsat to provide service in the United States in 2001.

³³ L band frequencies that have been loaned between L band operators have not been “coordinated for” the borrowing operator. In order to have the right to “loan” frequencies, the lending operator must have “coordinated for” the right to use those frequencies in the first place. Thus, the terms of the *COMSAT Order* and similar decisions licensing L band earth stations only give the lending operator, and not the borrowing operator, the right to use loaned frequencies. The words “coordinated for” as used in the *COMSAT Order* and similar decisions licensing L band earth stations recognize the superior right the lending operator has to loaned frequencies and that the lending operator may exercise its right to use the loaned frequencies at some point in the future.

providers.³⁴ Inmarsat's decision [REDACTED]

[REDACTED] is also consistent with such a condition, as is its statement in its April 2005 securities filing that "the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999."³⁵

Interference resulting from technically different nature of Inmarsat's new satellite relative to the satellites it has coordinated previously under the Mexico City MoU. The second type of interference results from the fact that, from a technical perspective, Inmarsat 4F2 is largely different than the Inmarsat-3 satellites, and is more likely both to cause interference to and to suffer interference from other L band systems. BGAN terminals operating with Inmarsat 4F2 will use wideband carriers [REDACTED]

[REDACTED] Inmarsat and other L band operators have never coordinated an envelope of frequency assignments, including necessary guard band requirements, within which Inmarsat can operate these wideband carriers while avoiding non-co-channel interference to other L band operators. The inappropriate placement of a broadband, uncoordinated carrier at frequencies too close to a band edge may result in an absolute level of non-co-channel emissions that result in

³⁴ See Exhibit A. Moreover, the *Outerlink* cases demonstrate that the Commission requires L band operators to comply with the 1999 SSA even though a new agreement has not been negotiated since 1999. In the *Outerlink* cases, the Bureau permitted an MSV customer to use frequencies "coordinated for" Inmarsat in the 1999 SSA, but only after Inmarsat consented to these operations based on its conclusion that harmful interference would not occur due to the unique attributes of the *Outerlink* service. See *Outerlink, Inc., Order and Authorization*, DA 01-664 (April 16, 2001); *Outerlink, Inc., Order and Authorization*, DA 02-1 525 (July 2, 2002); see also Letter from Donald M. Kennedy, Inmarsat, to Mr. Thomas S. Tycz, FCC, File No. SES-LIC-19980415-00436 (December 19, 2000), at 1 ("As a result of technical discussions and observations, Inmarsat has concluded that uplink transmissions from *Outerlink* mobile earth stations are not expected to cause harmful interference to Inmarsat's uplink operations."). In contrast, MSV and MSV Canada have not consented to Inmarsat's continued use of loaned-but-recalled frequencies.

³⁵ Inmarsat April 2005 Form 20-F, at 48.

harmful interference to other L band operators. Indeed, the wideband carriers Inmarsat operates today on its Inmarsat-3 satellites, including those used to provide its High Speed Data ("HSD") service, have never been coordinated and have resulted in interference to MSV.³⁶ Moreover, the aggregate EIRP ("AEIRP") of Inmarsat 4F2 is significantly higher than that of Inmarsat-3, raising the potential for increased interference in the downlink to other L band operators.³⁷ A BGAN forward link carrier may be radiated from the Inmarsat 4F2 satellite at 10 dB higher power, or more, relative to a coordinated narrowband Inmarsat-3 carrier, owing to the higher data throughput capability of the BGAN carrier being at least one order of magnitude higher compared to that of the narrowband Inmarsat-3 carrier. As such, absent coordination, out-of-

36

[REDACTED] Inmarsat has not yet undertaken this required coordination. As the proponent of providing HSD services, the onus has been on Inmarsat to initiate this coordination, as contemplated in the 1998 Operators Meeting and as required by ITU Radio Regulations. Not surprisingly, MSV has suffered non-co-channel interference from Inmarsat's uncoordinated HSD transmissions due to Inmarsat's failure to provide sufficient guard bands with respect to MSV transmissions. In coordination of these MSS wideband carriers, the challenge is to suitably limit this interference risk while minimizing the size and number of guard bands in order to achieve the highest possible spectrum utilization efficiency. Moreover, the necessary guard bands must be equitably accommodated within the operators' frequency assignments. Establishment of the appropriate risk-efficiency balances and equitable placements of guard bands are not matters that should be decided unilaterally by Inmarsat.

Operation of wideband carriers on current-generation satellites is not the only example of operations Inmarsat has failed to coordinate despite its obligation to do so. Inmarsat also currently operates an Inmarsat-2 satellite at 98°W and an Inmarsat-3 satellite at 142°W, none of which have been coordinated with other North American L band operators. *See* Inmarsat April 2005 Form 20-F, at 39.

³⁷ In recently granting STAs to operate BGAN terminals with the uncoordinated Inmarsat 4F2 satellite, the Bureau acknowledged some of these concerns by restricting Inmarsat from increasing the aggregate uplink and downlink EIRP densities relative to services provided over the Inmarsat 3F4 satellite. *See, e.g.,* Thrane & Thrane Airtime Ltd., Stamp Grant, File No. SES-STA-20060522-00857 (Call Sign E060179) (June 30, 2006), at ¶ 1.

channel and out-of-band emissions of the BGAN carrier are likely to cause harmful interference to other L band systems.³⁸ In addition, while Inmarsat-3 satellites have been coordinated to account for their six (or less) larger regional beams, the Inmarsat-4 satellites will exhibit a 14-fold increase in the frequency reuse capability based upon the increase in the number of beams to support BGAN service. This dramatic increase in the number of beams requires new mutually-agreed calculations of interference levels, assessment of the acceptability of interference levels by each operator, and careful development of a new and substantially different co-channel reuse spectrum sharing matrix to govern the operation of Inmarsat-4 spot beams vis-à-vis the MSV and MSV Canada systems. This multilateral engineering process is required to ensure that multiple-entry co-channel interference between Inmarsat-4 and the current systems of MSV and MSV Canada is accurately quantified and consistent with the performance requirements of each system. The spectrum reuse matrix adopted in the 1999 SSA among the North American L band MSS operators does not account for this increase in the number of co-channel reuse beams or the change in the spot beam size and specific geographic coverage. These changes relative to the coordinated parameters, in conjunction with a significantly larger aggregate EIRP of Inmarsat 4F2 relative to Inmarsat-3, could cause harmful intersystem interference if the required engineering is not conducted and subscribed to multilaterally by the three operators through a formal and binding coordination agreement. Thus, while Inmarsat has claimed that it can operate

³⁸ Compliance with the Commission's rule regarding out-of-band emissions may not be enough to protect MSV from harmful interference. This rule limits emissions outside of Inmarsat's "authorized bandwidth." 47 C.F.R. § 25.202(f). Given Inmarsat's mistaken view that its "authorized bandwidth" is the entire L band, it presumably has taken the position that the Commission's rules only limit its emissions outside of the L band to protect services in bands adjacent to the L band, not outside of each individually coordinated L band frequency segment in order to protect other L band operators. As such, Inmarsat's alleged compliance with the Commission's restrictions on out-of-band emissions will do nothing to prevent harmful interference to other L band operators.

BGAN services over Inmarsat 4F2 within the “technical envelope” in which they are operated today, this “technical envelope” simply does not exist because Inmarsat has not diligently coordinated all of its operations in order to establish such an envelope.³⁹ The fact is that the key technical parameters of Inmarsat 4F2 used to support BGAN services, such as its proposed use of loaned frequencies, increased number of co-channel reuse beams, higher AEIRP, and wideband carriers, have not been previously coordinated, thus making operation of Inmarsat 4F2 on a non-harmful interference basis relative to other L band systems unlikely. Absent prior coordination, it is unclear how Inmarsat intends to provide these services while avoiding interference to other L band operators.

The potential for interference is not limited to that caused to other L band systems because Inmarsat itself may suffer greater interference upon operation of its new satellite and services. Inmarsat has stated that the Inmarsat 4F2 is far more susceptible than the Inmarsat-3 satellites to co-channel interference from operation of current-generation L band satellite terminals. The Commission has noted that uplink co-channel interference resulting from MSV’s current-generation satellite terminals will increase from 58.6% $\Delta T/T$ to 794.1% $\Delta T/T$ as Inmarsat transitions from the Inmarsat-3 satellites to the narrow spot beams on the Inmarsat-4 satellites used to support BGAN operations.⁴⁰ Moreover, while the technical parameters permitting co-

³⁹ Inmarsat has claimed that the “technical envelope” under which it will operate was established in a 1992 bilateral agreement between the U.S. and the United Kingdom. *See Consolidated Response of Inmarsat Ventures Limited, File No. SES-STA-20051216-01756 et al (January 6, 2006), at 6.* This agreement, however, is a sharing matrix that applies exclusively to the I-3 satellite beam configuration. The agreement does not address the materially different technical parameters of L band operations on the Inmarsat 4F2 satellite. Inmarsat does not have the authority to unilaterally decide whether its Inmarsat 4F2 satellite falls within this “technical envelope.”

⁴⁰ *See ATC Order, Appendix C2, Table 2.1.1.C.* The Commission’s characterization of the interference environment is strictly limited to interference from satellite operations. The

channel sharing between Inmarsat and other North American L band operators are specified in the reuse matrix accompanying the 1999 SSA, the 14-fold increase in the frequency reuse capability based upon the increase in the number of beams to support BGAN service and the major differences in associated beam-coverage areas render this reuse matrix inapplicable to the Inmarsat-4 satellites. This interference problem would exist even if the Inmarsat-4F2 satellite were proposed to be positioned at the same 54.00°W orbital location of the Inmarsat-3 satellite, rather than 52.75°W. With respect to adjacent-band interference, Inmarsat has claimed in another proceeding that the Inmarsat 4F2 satellite has not been designed to accommodate the level of adjacent band interference that can exist from operation of current L band systems based on the system parameters contemplated when Inmarsat-3 was coordinated.⁴¹ If this is the case (which MSV has reason to doubt),⁴² then Inmarsat 4F2 is more susceptible to adjacent band

Commission's decision to permit operation of an Ancillary Terrestrial Component considered separately the potential impact of such terrestrial operations, concluding that terrestrial operations would be permitted if they added no more than an additional 1% $\Delta T/T$ to the interference environment of co-channel operations of other, already-coordinated systems. See *Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and Reconsideration*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005) ("ATC Reconsideration Order"), ¶¶ 44-45. For uncoordinated systems such as the Inmarsat-4 satellites, the Commission left it to the operators to negotiate a combined interference limit and, in the absence of an agreement, indicated that it would permit a similar one percent additional rise in the noise floor, above whatever level the parties coordinate for satellite operations. *Id.*

⁴¹ At the time the last L band coordination agreement was reached, Inmarsat was well aware of the potential for the U.S. and Canadian-licensed L-band satellites to support more than 1,000 METs transmitting simultaneously, allowing for voice activation. Given the 16 dBW maximum EIRP of these METs, there can be more than 46 dBW aggregate EIRP ($16 + 10 \cdot \log(1000)$) launched toward space from current L-band METs alone. See MSV, *Opposition to Inmarsat Ventures Ltd. Petition for Partial Reconsideration and Clarification*, IB Docket No. 01-185 (August 4, 2005), at 9-10 and Technical Appendix. In the ATC proceeding, however, Inmarsat has claimed that Inmarsat 4F2 has been designed to accommodate only 37 dBW from "MSV-related" sources of interference. See *Inmarsat Ventures Ltd, Petition for Partial Reconsideration and Clarification*, IB Docket No. 01-185 (May 13, 2005) ("*Inmarsat Petition*"), at 9.

⁴² See Letter from Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, IB Docket No. 01-185 (November 15, 2005).

interference than the Inmarsat-3 satellites. The result is that, even assuming Inmarsat operates within the confines of the 1999 SSA, it is unlikely to be able to operate Inmarsat 4F2 on an unprotected, non-interference basis. Thus, operation of Inmarsat-4 satellites in the United States will require substantial Commission oversight and enforcement.⁴³

Interference resulting from Inmarsat's proposal to operate throughout the entire MSS L band. The third potential for interference results from Inmarsat's claim that it is entitled to operate on each and every frequency in the L band despite (i) its earlier commitments to operate only on spectrum it had coordinated pursuant to the 1999 SSA; (ii) the existing interference in the band; (iii) the new technical characteristics of the proposed satellite; and (iv) the contention among the operators regarding their need for additional spectrum.⁴⁴ Inmarsat provides no explanation as to how L band operators in actual practice could possibly operate on all L band frequencies and not cause mutual interference. Even assuming that the Commission did authorize Inmarsat-3 to operate on every L band frequency (which is not the case),⁴⁵ this would no longer be sound spectrum management policy in the case of Inmarsat 4F2, which is

⁴³ Inmarsat expressed these same concerns in the *Outerlink* case when an MSV customer sought to use frequencies coordinated for Inmarsat. As Inmarsat explained in that proceeding, "Inmarsat is concerned that if Outerlink's Application is granted, Outerlink may attempt to use the license to claim protection from Inmarsat's operations and thereby limit Inmarsat's use of the [] L-band. If Outerlink were successfully able to claim protection from harmful interference, service to Inmarsat's customers . . . would suffer." See Letter from John P. Janka, Counsel for Inmarsat, to Mr. Thomas S. Tycz, FCC, File No. SES-LIC-19980415-00436 (April 23, 2002), at 3.

⁴⁴

[REDACTED], as is its statement in its April 2005 securities filing that "the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999." Inmarsat April 2005 Form 20-F, at 48.

⁴⁵ *COMSAT Order* ¶ 115(c)-(d); see *supra* pages 12-14.

technically different than Inmarsat-3 and is more likely to cause interference to, and to receive interference from, other L band operators.

MSV and MSV Canada have recently notified Inmarsat that they have suffered a significant increase in their return link noise floor at the edge of certain of their coordinated band segments apparently caused by Inmarsat's placement of its own carriers too close to the band edge. Given these examples of Inmarsat's efforts to encroach upon frequencies coordinated for other operators, as well as its continued claim to be entitled to use loaned-but-recalled spectrum, its ongoing use of satellites and services that have not been coordinated, and its plan to use the new satellites not to replace the older satellites but to supplement them, it would be unreasonable to expect that Inmarsat can and will operate its new satellite in a manner that does not lead to harmful interference in the absence of a coordination agreement.

Given the interference concerns presented by Inmarsat 4F2, requiring Inmarsat to coordinate prior to operation is both good spectrum management policy and consistent with precedent. *See supra note 26.* The technical issues presented by the proposed operation of Inmarsat-4 satellites can be resolved only through *a priori* frequency coordination among the L band operators and their licensing administrations, which has not yet occurred. Given the likelihood of operations of Inmarsat 4F2 to cause harmful interference to other L band operators and Inmarsat's refusal to abide by previous coordination agreements by returning loaned spectrum, it is not a solution for the Bureau to grant applications to operate with Inmarsat 4F2 now and hope that a coordination agreement can be reached in the future. As the current impasse in the L band indicates, a *post hoc* approach to coordination disserves the public interest and

impedes the full and efficient use of spectrum.⁴⁶ Allowing Inmarsat 4F2 to provide service in the United States prior to a coordination agreement threatens the ability of L band operators to provide vital satellite services, including critical services to the public safety community. L band operators will soon find themselves embroiled in interference disputes before the Commission, unable to take full advantage of this prime spectrum resource and depriving consumers of the benefits of innovative services that MSV will provide in the near future.

Accordingly, unless and until L band coordination discussions are finalized and a coordination agreement is reached, the Bureau should hold the iPass application in abeyance. Needless to say, if the Bureau authorizes the use of Inmarsat's new satellite without insisting that it first complete coordination, there are no reasonable prospects that such coordination will ever be successfully completed. The Commission's goals of increasing efficient use of spectrum and promoting broadband services, particularly in rural areas and for the public safety community, will be thwarted.⁴⁷ Having said that, however, it is also reasonable to expect that if the parties

⁴⁶ As it has done numerous times in the past, MSV invites Inmarsat to participate in discussions to make the most efficient use of the L band spectrum.

⁴⁷ Both the President and the Commission have identified efficient use of spectrum as a key spectrum management objective. *See Presidential Memorandum on Spectrum Policy for the 21st Century*, 69 Fed. Reg. 1568 (January 6, 2004), at §2(b) (listing as one of the President's spectrum management goals to "facilitate policy changes to create incentives for more efficient and beneficial use of spectrum"); *FCC, Strategic Plan: 2006-2011* (September 30, 2005) (identifying the promotion of efficient spectrum use as one of the Commission's six general goals for the next five years; stating that "efficient and effective use of non-federal spectrum domestically and internationally promotes the growth and rapid deployment of innovative and efficient communications technologies and services"). The Commission has recognized that assignment of contiguous frequency blocks will increase spectrum efficiency and, therefore, benefit the public. *See generally Improving Public Safety Communications in the 800 MHz Band, Report and Order*, 19 FCC Rcd 14969 (August 6, 2004); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, Third Report and Order, Third Notice of Proposed Rule Making, and Second Memorandum Opinion and Order*, 18 FCC Rcd 2223, ¶ 68 (2003); *Amendment of Part 2 of the*

commit to a good faith effort to complete a comprehensive regional coordination agreement, MSV's view is that it can be completed in a matter of a few months.⁴⁸

To the extent the Bureau nonetheless grants the application now prior to a coordination agreement, the Bureau should attach certain conditions intended to mitigate the risk of harmful interference to L band users and to promote more efficient use of L band spectrum.⁴⁹ First, iPass should not be permitted to operate on L band frequencies that were loaned to Inmarsat by MSV or MSV Canada. Second, operators of L-band satellites serving the United States should make best efforts to coordinate access to L band spectrum in a manner that maximizes the potential for offering broadband services, including rebanding into minimum 5 MHz assigned band segments for each satellite system. Third, until Inmarsat has completed coordination of any uncoordinated satellite with all L band operators serving the United States, any grant of authority for Inmarsat operations should be on a non-interference, unprotected basis with respect to MSV's previously coordinated satellites and replacement satellites.

II. THE iPASS APPLICATION RAISES ADDITIONAL ISSUES THAT WARRANT FURTHER SCRUTINY

The lack of international frequency coordination for Inmarsat 4F2 notwithstanding, the iPass application raises additional issues that warrant further scrutiny. First, while iPass claims

Commission's Rules to Allocate Spectrum Below 3 GHz, Second Report and Order, 17 FCC Rcd 23193, ¶ 16 (November 15, 2002) ("The record also identifies general benefits of large contiguous blocks of harmonized spectrum, including economies of scale in equipment development and quicker deployment of advanced services.").

⁴⁸ See MSV, Comments, File No. SES-STA-20051216-01760 et al. (December 28, 2005) ("*MSV STA Comments*").

⁴⁹ MSV proposed these conditions in a letter regarding the pending applications to operate with the uncoordinated Inmarsat 4F2 satellite. See Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-MFS-20051122-01614 et al. (June 20, 2006). MSV has attached this letter as Exhibit B and incorporates it herein.

that Inmarsat 4F2 is a replacement for the Inmarsat-3 satellite at 54°W, there is insufficient evidence in the record to support this claim. While iPass claims that Inmarsat 4F2 serves the same geographic area as the Inmarsat-3 satellite at 54°W, neither Inmarsat nor iPass has provided the coverage area for the Inmarsat-3 satellite in order to make that comparison.⁵⁰ Moreover, as the recent STA requests from Inmarsat's distributors revealed, the Inmarsat-3 satellite that Inmarsat 4F2 is allegedly replacing has been moved to 142°W to continue service. *See, e.g., Stratos STA Request.* To the extent the Bureau finds that Inmarsat 4F2 is a replacement satellite under the Commission's rules despite these discrepancies, the Bureau should make clear that this decision does not mean that the Commission as the representative of the United States in international frequency coordination negotiations considers Inmarsat 4F2 to be a replacement satellite under the *Mexico City MoU*. As discussed above (*see supra* pages 9-10), Inmarsat 4F2 cannot be considered a replacement satellite under the *Mexico City MoU*.

Second, while iPass is correct when it states that the Commission rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station keeping does not apply to MSS satellites, it is incorrect when it implies that this is settled law.⁵¹ In acting on MSV's application to operate an MSS satellite with $\pm 0.1^\circ$ East-West station keeping, the Bureau held that MSV was required to

⁵⁰ While iPass states that Inmarsat 4F2 "will serve the same geographic regions" as the Inmarsat-3 satellite previously located at 54°W, this leaves unanswered whether Inmarsat 4F2 covers geographic regions beyond those covered by the Inmarsat-3 satellite at 54°W, which would disqualify Inmarsat 4F2 from being a replacement satellite. *See iPass Application*, Attachment A at 1; 47 C.F.R. § 25.165(e) ("A replacement satellite is one that is . . . [a]uthorized to be operated at the same orbit location, in the same frequency bands, and with the same coverage area as one of the licensee's existing satellites."); *AfriSpace, Inc., Order and Authorization*, DA 06-4, ¶ 5 (Chief, International Bureau, January 3, 2006) (explaining that the satellite does not satisfy the Commission's criteria for a replacement satellite because it will have a different coverage area than the satellite it is replacing).

⁵¹ *iPass Application*, Attachment A at 43; *see* 47 C.F.R. § 25.210(j).

justify a waiver of the rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station keeping.⁵² MSV has sought reconsideration of this decision, asking the Bureau to clarify that the rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station-keeping does not apply to MSS satellites.⁵³ This proceeding is pending. To the extent the Bureau authorizes Inmarsat 4F2 for service in the United States with $\pm 0.1^\circ$ East-West station keeping without seeking a waiver, the Bureau must afford similar treatment to other MSS satellites proposing to serve the U.S. market, such as MSV-1. Conversely, if the Bureau on reconsideration of the *MSV-1 Order* upholds its decision that MSS satellites are required to comply with $\pm 0.05^\circ$ East-West station-keeping, the iPass application must be dismissed for failing to seek a waiver of this rule.⁵⁴

Third, iPass states that it will negotiate an agreement with the Executive Branch to address the admitted national security and law enforcement concerns presented by operation of the BGAN terminals. *See iPass Application*, Exhibit I at 4. Indeed, because iPass has never held an earth station license authorizing access to Inmarsat, the Bureau has never addressed the national security and law enforcement concerns presented by its operation with Inmarsat in the United States. The Commission has explained that in reviewing applications from foreign entities proposing to provide telecommunications services in the United States, it will assess any national security and law enforcement concerns raised by the application.⁵⁵ While the

⁵² *See MSV-1 Order*, ¶ 21.

⁵³ *See MSV*, Petition for Clarification and Partial Reconsideration, File Nos. SAT-LOA-19980702-00066 et al. (June 22, 2005).

⁵⁴ *See Letter from Thomas S. Tycz, FCC, to John K. Hane, Pegasus Development Corporation*, DA 03-3665 (November 19, 2003) (dismissing application for failing to seek waiver of Commission's East-West station-keeping rule).

⁵⁵ *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891, ¶ 61 (November 26, 1997). In reviewing other applications to provide MSS in the United States, the Executive Branch has

Commission has stated that it will defer to the expertise of the Executive Branch in identifying these concerns, the application must provide the Bureau with the information it needs to perform its own public interest analysis by assessing whether national security and law enforcement efforts will be compromised by grant of the application.⁵⁶

The Bureau should accordingly defer consideration of the iPass application until iPass reaches an agreement with the Executive Branch that addresses the national security and law enforcement concerns presented by its application. Once iPass reaches an agreement, it should be required to file that agreement with the Commission. Absent such filing, the Bureau and interested parties will be deprived of vital information needed to assess whether grant of the application will serve the public interest. To the extent the Bureau does not require iPass to file its agreement, the Bureau must afford similar treatment to other MSS operators. Moreover, even assuming that iPass eventually reaches an agreement with the Executive Branch, this is not sufficient to assure the Bureau that the application does not raise national security and law enforcement concerns. Given the Commission's recent decision directing the Network Reliability and Interoperability Council ("NRIC") to adopt recommendations for E911 for MSS,⁵⁷ the Bureau can only conclude that grant of the application will hamper law enforcement

expressed concern with the national security and law enforcement implications of routing MSS traffic through a gateway earth station located in a foreign country. *See TMI Communications and Company, Limited Partnership*, 14 FCC Rcd 20798, ¶ 55 (1999) ("TMI Order").

⁵⁶ In other cases, applicants proposing to route MSS traffic through a gateway earth station located in a foreign country have been required to provide the Bureau with a copy of the agreement entered into with the Executive Branch. *See, e.g., TMI Order; COMSAT Order; Motient Services Inc. and TMI Communications and Company, LP, Assignors, and Mobile Satellite Ventures Subsidiary LLC, Assignee, Order and Authorization*, DA 01-2732, 16 FCC Rcd 20469 (Int'l Bur. 2001).

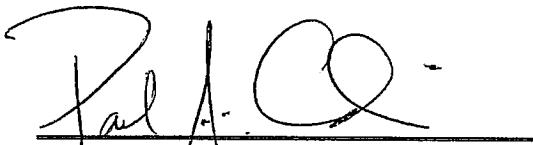
⁵⁷ *See Second Report and Order*, CC Docket No. 94-102, IB Docket No. 99-67, FCC 04-201 (August 25, 2004).

efforts and harm public safety given Inmarsat's stated position that the location of its gateway earth stations in Europe makes E911 compliance infeasible.⁵⁸ The Bureau must make clear that, to the extent the Commission eventually requires MSS operators to provide E911, Inmarsat's unilateral choice to locate gateway earth stations overseas does not excuse it from having to comply with any E911 requirements the Commission may adopt.

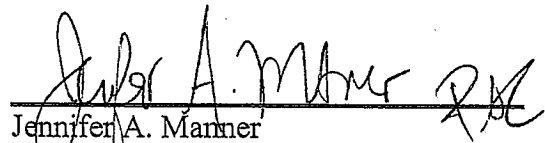
Conclusion

Based on the foregoing, the Commission should hold in abeyance the iPass application until the conclusion of an L band coordination agreement.

Respectfully submitted,



Bruce D. Jacobs
Tony Lin
Paul A. Cicelski
**PILLSBURY WINTHROP
SHAW PITTMAN LLP**
2300 N Street, NW
Washington, DC 20037-1128
(202) 663-8000



Jennifer A. Manner
Vice President, Regulatory Affairs
**MOBILE SATELLITE VENTURES
SUBSIDIARY LLC**
10802 Parkridge Boulevard
Reston, Virginia 20191
(703) 390-2700

Dated: September 14, 2007

⁵⁸ See Reply Comments of Inmarsat Ventures PLC, IB Docket No. 99-67, at 8-11 (March 25, 2002). While the Commission has exempted MSS terminals that cannot be used in motion from E911 compliance, Inmarsat has admitted that at least some of its BGAN terminals must be E911 compliant. See Inmarsat Ventures Limited, Reply, File No. SAT-MOD-20031118-00333 (January 5, 2005), at 3 n.9 (“[T]he Commission *did not* exempt all BGAN terminals from E911 requirements.”) (emphasis in original).

Exhibit A

Commission Statements Acknowledging that L Band Operators Are Limited to Frequencies Coordinated For Their Systems in the 1999 SSA

- *Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962 (February 10, 2003) (“*ATC Order*”):

“The parties to the MoU last revised spectrum assignments in 1999 and, pending further negotiations, continue to operate under those assignments today.” (¶ 92)

“Although annual meetings were to have taken place under the terms of the Mexico City MoU, these meetings have not occurred since the parties last agreed to a complex spectrum-sharing arrangement in London in 1999; therefore, the parties continue to operate under the 1999 assignments pending further negotiations.” (n. 144)

- *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 04-3553 (Int’l Bur. 2004):

“The parties to the MOU last revised the spectrum assignments in 1999 and, pending further negotiations, continue to operate with those assignments today.” (n.8)

- *Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and ATC Reconsideration Order*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005) (“*ATC Reconsideration Order*”):

“These negotiations have not occurred since 1999, and the 1999 coordination agreement remains in effect.” (¶ 38)

“The current coordination agreement under which Inmarsat and MSV share L-band spectrum was finalized in 1999. Ideally, the L-band MSS operators should renegotiate their coordination agreement every year. Indeed, changes to the existing coordination agreement could help avoid some of the potential interference issues that could arise from deployment of MSS/ATC. At the same time, however, we acknowledge that it could take a great deal of time and effort to conduct further coordination negotiations. For this reason, *in the case of any L-band frequency that is currently the subject of a coordination agreement and is shared between an MSS operator and an MSS/ATC operator*, we will permit an MSS/ATC to cause a small increase in interference to another MSS operator’s system above the coordinated interference level when the coordinated interference level is already greater than 6% $\Delta T/T$. This measure accounts for the reality that MSS is currently operating in the L-band, and that it may be necessary and appropriate to allow a slightly higher level of interference than currently coordinated levels allow in order to permit ATC to begin operations. When L-band MSS operators enter into a new coordination agreement, this additional interference allowance will no longer apply, and MSS/ATC operators will be required to operate its ATC within the limits coordinated by the parties.” (¶ 44) (emphasis added)

Exhibit B

Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC,
File No. SES-MFS-20051122-01614 *et al.* (June 20, 2006)

RECEIVED

June 20, 2006

JUN 20 2006

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

Federal Communications Commission
Office of Secretary

**Re: Pending Applications to Operate with an Uncoordinated Inmarsat Satellite
File Numbers Attached as Exhibit A**

Dear Ms. Dortch:

In the applications referenced in Exhibit A, various entities have applied for earth station licenses to operate with an uncoordinated Inmarsat satellite. These entities have applied to provide both earlier generation services as well as new Broadband Global Area Network ("BGAN") services with the uncoordinated satellite. As Mobile Satellite Ventures Subsidiary LLC ("MSV"), the United States L band licensee, has explained in these proceedings, operations with this uncoordinated satellite present a significant risk of interference to customers of all L band operators for three main reasons.¹

First, Inmarsat's current use of loaned spectrum is blocking MSV's operations today, and grant of the referenced applications authorizing Inmarsat operations on the loaned spectrum would do the same.²

Second, Inmarsat's new satellite and new services have different technical characteristics from those Inmarsat has coordinated previously; the new satellite and services have not been coordinated; and the uncoordinated operation of the satellite and services will likely result in harmful interference.

¹ See, e.g., Mobile Satellite Ventures Subsidiary LLC, Petition to Hold in Abeyance, File No. SES-LFS-20060303-00343, File No. SES-AMD-20060316-00448 (Call Sign E060076) (April 14, 2006).

² The Bureau has defined "loaned" L band frequencies as "those bandwidth segments that were loaned to Inmarsat by MSV and [Mobile Satellite Ventures (Canada) Inc.], either as part of the Revised 1999 Spectrum Sharing Arrangement (October 4, 1999), or later as bilateral arrangements between Inmarsat and MSV and Inmarsat and MSV Canada." See, e.g., *Telenor STA Grant*, File No. SES-STA-20060118-00055 et al (January 18, 2006), at ¶ 3.

Third, Inmarsat claims the right to operate using any L band frequency it chooses without any explanation as to how it will avoid interference to other L-band operators that use the same frequencies.

Accordingly, MSV hereby requests that the International Bureau impose the following conditions on any grant of the referenced applications.

Condition 1. The licensees are not authorized to operate on L band frequencies that were loaned to Inmarsat by MSV or MSV Canada.

Inmarsat's continued use of loaned frequencies that have been coordinated for use by MSV and MSV Canada hinders the operations of MSV and MSV Canada today as well as impedes implementation of their next-generation integrated satellite-terrestrial systems. In granting Special Temporary Authority ("STA") to operate BGAN terminals with the new uncoordinated Inmarsat 4F2 satellite, the International Bureau did not authorize the use of loaned frequencies.³ Consistent with this precedent, MSV urges the Commission to attach the same condition to all earth stations licensed to operate with Inmarsat satellites.

Condition 2. Operators of L-band satellites serving the United States should make best efforts to coordinate access to L band spectrum in a manner that maximizes the potential for offering broadband services, including rebanding into minimum 5 MHz assigned band segments for each satellite system.⁴ The FCC reserves the right to revisit this issue if sufficient progress is not being made.

Under the current spectrum sharing arrangement in the L band, spectrum is divided among the five L band operators in largely non-contiguous slivers which do not support broadband air interfaces. Consistent with the spectrum management goals of the President and the Commission, the above condition will require operators to use L band spectrum more efficiently and effectively by coordinating the assignment of contiguous and wider frequency blocks and by reducing the need for multiple guard bands. Both the President and the Commission have identified efficient spectrum as a key spectrum management objective.⁵ The

³ See, e.g., Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20060310-00419 (filed March 10, 2006; granted with conditions on May 12, 2006).

⁴ The licensee should be required to submit a report every 120 days describing progress, including specified dates for achieving rebanding.

⁵ See *Presidential Memorandum on Spectrum Policy for the 21st Century*, 69 Fed. Reg. 1568 (January 6, 2004), at §2(b) (listing as one of the President's spectrum management goals to "facilitate policy changes to create incentives for more efficient and beneficial use of spectrum"); *FCC, Strategic Plan: 2006-2011* (September 30, 2005) (identifying the promotion of efficient spectrum use as one of the Commission's six general goals for the next five years; stating that "efficient and effective use of non-federal spectrum domestically and internationally promotes

Commission has recognized that assignment of contiguous frequency blocks will increase spectrum efficiency and, therefore, benefit the public.⁶ Moreover, assigned band segments of a minimum of 5 MHz will enable L band MSS operators to support common broadband air interfaces, thereby fulfilling the goals of the President and the Commission to promote broadband to all Americans in an expeditious manner.⁷ In addition to the benefits of broadband for consumers and the economy, the Commission has also recognized that broadband will provide significant benefits to public safety and emergency response providers.⁸ MSV stands ready to work with Inmarsat to achieve more efficient use of L band spectrum to promote use of broadband technologies.

Footnote continued from previous page

the growth and rapid deployment of innovative and efficient communications technologies and services”).

⁶ See generally *Improving Public Safety Communications in the 800 MHz Band, Report and Order*, 19 FCC Rcd 14969 (August 6, 2004); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, Third Report and Order, Third Notice of Proposed Rule Making, and Second Memorandum Opinion and Order*, 18 FCC Rcd 2223, ¶ 68 (2003); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz, Second Report and Order*, 17 FCC Rcd 23193, ¶ 16 (November 15, 2002) (“The record also identifies general benefits of large contiguous blocks of harmonized spectrum, including economies of scale in equipment development and quicker deployment of advanced services.”).

⁷ See White House, *A New Generation of American Innovation* (April 2004) (“The President has called for universal, affordable access for broadband technology by the year 2007 and wants to make sure we give Americans plenty of technology choices when it comes to purchasing broadband. Broadband technology will enhance our Nation's economic competitiveness and will help improve education and health care for all Americans.”) (available at http://www.whitehouse.gov/infocus/technology/economic_policy200404/toc.html); *FCC, Strategic Plan: 2006-2011* (September 30, 2005) (identifying the promotion of broadband as one of the Commission's six general goals for the next five years).

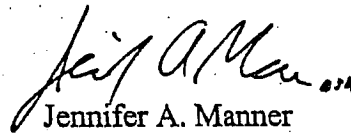
⁸ *Report to Congress On the Study to Assess Short-Term and Long-Term Needs for Allocations of Additional Portions of the Electromagnetic Spectrum for Federal, State and Local Emergency Response Providers*, 14 FCC Rcd 7772, ¶ 26 (December 19, 2005) (“Emergency response providers would benefit from the development of an integrated, interoperable nationwide network capable of delivering broadband services throughout the country. A network that delivers real-time, high speed, highly secure broadband data to emergency response providers in the field would improve their ability to respond to emergencies.”).

Condition 3. Until Inmarsat has completed coordination of any uncoordinated satellite with all L band operators serving the United States, any FCC grant of authority for Inmarsat operations should be on a non-interference, unprotected basis with respect to MSV's previously coordinated satellites and replacement satellites.

Unless and until Inmarsat coordinates its satellites with MSV and MSV Canada, Inmarsat must be required to operate on a non-interference and unprotected basis. Such a condition is consistent with Commission precedent granting applications to operate with uncoordinated satellites, including Inmarsat's satellites.⁹

Please contact the undersigned with any questions.

Very truly yours,


Jennifer A. Manner

⁹ See *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661, ¶ 115(d) (2001) ("COMSAT Order").

Exhibit A

Pending Applications to Provide Earlier Generation Services with Inmarsat 4F2

Applicant	File Number
Stratos Communications Inc.	SES-MFS-20051122-01614 (Call Sign E000180) SES-MFS-20051122-01615 (Call Sign E010050) SES-MFS-20051122-01616 (Call Sign E010048) SES-MFS-20051122-01617 (Call Sign E010049) SES-MFS-20051122-01618 (Call Sign E010047)
Telenor Satellite, Inc.	SES-MFS-20051123-01626 (Call Sign KA312) SES-MFS-20051123-01627 (Call Sign KA313) SES-MFS-20051123-01629 (Call Sign WA28) SES-MFS-20051123-01630 (Call Sign WB36) SES-MFS-20060118-00050 (Call Sign E000280) SES-MFS-20060118-00051 (Call Sign E000282) SES-MFS-20060118-00052 (Call Sign E000283) SES-MFS-20060118-00053 (Call Sign E000285) SES-LIC-20060130-00175 (Call Sign E060025)
SkyWave Mobile Communications Corp.	SES-MFS-20051207-01709 (Call Sign E030055)
Satamatics, Inc.	SES-MFS-20051202-01665 (Call Sign E020074)


Pending Applications to Provide BGAN Services with Inmarsat 4F2

Applicant	File Number
Stratos Communications Inc.	SES-LFS-20050826-01175 (Call Sign E050249) SES-AMD-20050922-01313 (Call Sign E050249) SES-AMD-20051117-01590 (Call Sign E050249)
Telenor Satellite, Inc.	SES-LFS-20050930-01352 (Call Sign E050276) SES-AMD-20051111-01564 (Call Sign E050276) SES-AMD-20060109-00019 (Call Sign E050276) SES-AMD-20060607-00942 (Call Sign E050276)
FTMSC US, LLC	SES-LFS-20051011-01396 (Call Sign E050284) SES-AMD-20051118-01602 (Call Sign E050284) SES-AMD-20060605-00926 (Call Sign E050284)
MVS USA, Inc.	SES-LFS-20051123-01634 (Call Sign E050348) SES-AMD-20060329-00540 (Call Sign E050348)
BT Americas Inc.	SES-LFS-20060303-00343 (Call Sign E060076) SES-AMD-20060316-00448 (Call Sign E050284)
Thrane and Thrane	SES-LFS-20060522-00852 (Call Sign E060179)

Declaration of Jennifer A. Manner

1. I am the Vice President, Regulatory Affairs of Mobile Satellite Ventures Subsidiary LLC.
2. I have read the foregoing Petition to Hold in Abeyance the application of iPass, Inc. for a blanket license to operate Broadband Global Area Network terminals in the United States.
3. I have personal knowledge of the facts stated in the Petition to Hold in Abeyance. The facts set forth in the Petition, other than those of which official notice may be taken, are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.



Jennifer A. Manner

Dated: September 14, 2007

Technical Certification

I, Richard O. Evans, Senior Engineer of Mobile Satellite Ventures Subsidiary LLC, certify under penalty of perjury that:

I am the technically qualified person with overall responsibility for the technical information contained in this Petition to Hold in Abeyance. I am familiar with the Commission's rules, and the information contained in the Petition to Hold in Abeyance is true and correct to the best of my knowledge and belief.



Richard O. Evans
Richard O. Evans

Dated: September 14, 2007

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this September 14, 2007, served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

Helen Domenici*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Roderick Porter*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Gardner Foster*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Cassandra Thomas*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Scott Kotler*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Stephen Duall*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Howard Griboff*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Andrea Kelly*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

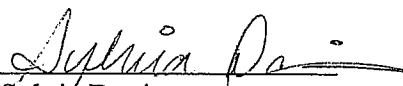
Robert Nelson*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Kathryn Medley*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Brad Jones
Legal Counsel
iPass, Inc.
3800 Bridge Parkway
Redwood Shores, CA 94065

Diane J. Cornell
Vice President, Government Affairs
Inmarsat, Inc.
1101 Connecticut Avenue N.W.
Suite 1200
Washington, DC 20036

John P. Janka
Jeffrey A. Marks
Latham & Watkins LLP
555 Eleventh Street, N.W.
Suite 1000
Washington, DC 20004
Counsel for Inmarsat, Inc.


Sylvia Davis

*By hand-delivery