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

In the Matter of	)	
	)	
SES Americom, Inc.	)	
	)	
Application for Modification of the AMC-16 Fixed-Satellite Service Space Station to Temporarily Vacate the 85° W.L. Orbital Location and for Telemetry, Tracking and Control Operations during Drift of the AMC-16 to and from the 118.75° W.L. Orbital Location	)	File No. SAT-MOD-20050621-00132 SAT-AMD-20051115-00218 Call Sign: S2181
	)	
SES Americom, Inc.	)	
	)	
Application for Modification of Earth Station Licenses to Provide Telemetry, Tracking and Control of the AMC-16 Space Station at the 118.75° W.L. Orbital Location	)	File Nos. SES-MFS-20050622-00803 SES-AFS-20050713-00909 SES-AMD-20051115-01577 SES-MFS-20050622-00804 SES-AFS-20050713-00910 SES-AMD-20051115-01576 Call Signs: E040368, E040407
	)	
EchoStar Satellite L.L.C.	)	
	)	
Application for Modification of Blanket Authority to Operate 1,000,000 Receive-Only Earth Stations to provide Direct-to-Home Fixed-Satellite Service in the United States to add the AMC-16 Space Station at the 118.75° W.L. Orbital Location as a Point of Communication	)	File No. SES-MFS-20050624-00813 Call Sign: E040344
	)	
EchoStar Satellite L.L.C.	)	
	)	
Application for Modification of Earth Station License to add the AMC-16 Space Station at the 118.75° W.L. Orbital Location as a Point of Communication	)	File No. SES-LIC-20050621-00799 SES-AMD-20051118-01601 Call Sign: E050181

ORDER AND AUTHORIZATION

Adopted: April 7, 2006 **Released: April 7, 2006**

By the Chief, International Bureau:

I. INTRODUCTION

1. With this Order, we modify licenses of SES Americom, Inc. (SES Americom) to authorize the telemetry, tracking, and command (TT&C) operations necessary to relocate SES Americom's AMC-16 satellite from 85° W.L. to the 118.75º W.L. orbital location (and back), where it will be operated pursuant to a Canadian authorization to Telesat Canada, until the Anik F3 satellite commences operations

at that location. We also modify authorizations held by EchoStar Satellite LLC (EchoStar) so as to permit the reception of Ku-band[1] direct-to-home (DTH) Fixed Satellite Service (FSS) from AMC-16 at the 118.75º W.L. orbital location, and TT&C and feeder link communications from U.S. earth stations to the AMC-16 satellite. We also grant SES Americom's request for a waiver Section 25.161(c) of the Commission's rules to allow it to retain its Ka-band[2] authorization at the 85° W.L. orbital location. These actions will allow early commencement of Ku-band DTH FSS service to U.S. customers from an orbital location capable of providing service to the contiguous United States. Accordingly, our action here will improve the choice of service to consumers in the U.S. multichannel video programming distribution (MVPD) market.

II. BACKGROUND

2. In October 2001, Industry Canada awarded Telesat Canada an approval in principle to operate a hybrid C/Ku/Ka-band FSS satellite, Anik F3, at the 118.7° W.L. orbital location.[3] In 2004, Telesat Canada's board of directors approved the "Anik F3 Agreement" between Telesat Canada and EchoStar.[4] The ANIK F3 Agreement authorizes EchoStar, as a United States licensee, to access Ku-band capacity on Anik F3, as soon as it is operational, to provide DTH FSS programming throughout the United States.[5] EchoStar states that its purpose for entering the agreement is to augment the spectrum currently used for MVPD services, including expanded local-into-local,[6] international, high definition television and other programming.[7] In 2005, we granted EchoStar authority for the United States facilities that would be used to effectuate the agreement.[8] Telesat Canada plans to launch Anik F3 satellite in the second half of 2006.[9]

3. In order to provide service from the 118.7º W.L nominal location at an earlier date than the commencement of operations of the Anik F3 satellite, EchoStar has requested that SES Americom move the AMC-16 satellite to the 118.75º W.L orbital location.[10] Echostar, SES Americom and Telesat

[1] As used in this *Order*, the term "Ku-Band" refers to the 11.7-12.2 GHz (downlink) and 14.0-14.5 GHz (uplink) frequency bands.

[2] As used in this *Order,* the term "Ka-Band" refers to the 18.6-18.8 GHz, 19.7-20.2 GHz, 28.4-28.6 GHz (Earth-to-space, and 29.5-30.0 GHz (Earth-to-space) frequency bands.

[3] *See Information Bulletin, Industry Canada Awards Satellite Licence* <http://www.ic.gc.ca.

[4] *See* EchoStar Satellite, LLC, Application for Authority to Operate U.S. Earth Stations with the Canadian-Licensed ANIK F3 Satellite to Offer Direct-to-Home Fixed Satellite Service Throughout the U.S., IBFS File No. SES-LFS-20040831-01253 (August 31, 2004) (EchoStar Blanket Earth Station Application).

[5] *Id.*

[6] The term "local-into-local," as used in this Order, refers to provision via satellite retransmission of local broadcast channels to subscribers who reside in the local TV station's market, which is defined as a Designated Market Area, or "DMA." *See* 17 U.S.C. § 122 (j)(2)(A).

[7] *See* EchoStar Blanket Earth Station Application, Narrative at 1.

[8] EchoStar Satellite LLC Application for Blanket Authorization to operate 1,000,000 Receive-Only Earth Stations, *Order and Authorization*, DA 05-3227 (Int'l Bur. 2005) (*EchoStar Blanket Authorization*) (granting EchoStar a blanket authorization for one million receive-only earth stations to receive Ku-band DTH service from Telesat Canada's Anik F3 space station, licensed by Industry Canada at the 118.7° W.L. orbital location).

[9] According to Telesat Canada's website: "Telesat's 17th satellite, Anik F3, is now under construction and is slated for service in the second half of 2006. ANIK F3 will provide a wide range of telecommunications, broadcasting, business communications and Internet-based services to users across North America." <http://www.telesat.ca/satellites/index.htm>.

[10] The 118.75º W.L. orbital location requested by SES Americom for AMC-16 is within the nominal 118.7º W.L. orbital location assigned to Canada under the *1988 Trilateral Arrangement*. Trilateral Arrangement Regarding Use (continued....)

Canada have entered into a Memorandum of Agreement concerning operations of AMC-16 at the 118.75º W.L. orbital location.[11] EchoStar has separately entered into a satellite service agreement with SES Americom, under which EchoStar has leased the full capacity of the AMC-16 satellite from SES Americom.[12] Accordingly, EchoStar seeks to add SES Americom's AMC-16 as a point of communication at the 118.75º W.L orbital location in its receive-only blanket earth station authorization, currently limited to the Anik F3 satellite, and to modify its feeder link earth stations to permit communications with AMC-16 at this location.[13] Currently, SES Americom is authorized to operate the hybrid Ka-/Ku-band AMC-16 satellite at the 85º W.L. orbital location.[14] Thus, in addition to Echostar's pending requests, SES filed an application seeking authority to relocate AMC-16 from the 85º W.L. orbital location to the 118.75º W.L. orbital location on a temporary basis, where it would provide Ku-band service under a license issued by Industry Canada to Telesat Canada.[15] SES Americom also filed applications to modify its earth station licenses to provide TT&C to AMC-16 at the 118.75º W.L. orbital location.[16] The various requests were accepted for filing and placed on public notice.[17] No comments were filed. On March 1, 2006, Industry Canada authorized Telesat Canada to operate AMC-16, using Ku-band spectrum only, on an interim basis until Anik F3 is brought into use at the 118.7º W.L. orbital location.

4. In addition, SES Americom filed an application, using the streamlined authorization procedures for fleet management,[18] to move its Ku-band AMC-2 satellite to the 85° W.L. orbital location.[19] The modification request became effective on June 27, 2005. SES Americom indicates that AMC-2 will provide interim Ku-band service from the 85° W.L. orbital location during the period that AMC-16 is at the 118.75° W.L. orbital location.

(...continued from previous page)
of the Geostationary Orbit Reached by Canada, Mexico, and the United States, *Public Notice* (Sept. 2, 1988) ("*1988 Trilateral Arrangement"*).

[11] SES Americom Application, at pp. 3-4.

[12] Application for Modification of SES Americom, Inc., SAT-MOD-20050621-00132 (SES Americom Application) at pp. 3, 11.

[13] Echo Star made this request to add AMC-16 as a point of communication for one million receive-only earth stations located in the United States in an amendment it filed on June 24, 2005. File No. SES-AFS-20050624-00813. The amendment related to EchoStar's underlying application for blanket authority, which the Bureau granted on December 20, 2005, while reserving action on communication with AMC-16. *EchoStar Blanket Authorization*, DA 05-3227 at ¶ 7. For administrative purposes, on March 28, 2006, the Satellite Division revised the file number of the request to communicate with AMC-16 to designate a modification of the blanket authorization and the file number has been changed to File No. SES-MFS-20050624-00813.

[14] Policy Branch Information, Actions Taken, *Public Notice*, Report No. SAT-00239, DA 04-2884 (rel. Sept. 3, 2004).

[15] The SES Americom Application**,** at pp. 3, 4.

[16] Satellite Communications Services, Satellite Radio Applications Accepted for Filing, *Public Notice*, Report No. SES-00744 (rel. Aug. 31, 2005).

[17] Policy Branch Information, Satellite Space Applications Accepted for Filing, *Public Notice*, Report No. SAT-00316 (rel. Aug. 26, 2005); Satellite Communications Services, Satellite Radio Applications Accepted for Filing, *Public Notice*, Report No. SES-00744 (rel. Aug. 31, 2005).

[18] 47 C.F.R. § 25.118(e).

[19] Fleet Management Notice of SES Americom, Inc., File No. SAT-MOD-20050527-00110.

III. DISCUSSION

5. In these applications, SES Americom and EchoStar request modifications to their respective licenses to authorize the temporary relocation of AMC-16 to the 118.75º W.L. orbital location, the reception of Ku-band DTH FSS from AMC-16 at the 118.75º W.L. orbital location by EchoStar's U.S. customers, and the operation of TT&C and feeder link communications from U.S. earth stations to the AMC-16 satellite. EchoStar plans to use AMC-16 to offer international programming, including existing services and new international services as they are added to EchoStar's programming line-up.[20] By moving certain existing programming to AMC-16, EchoStar will free capacity on its other satellites, allowing EchoStar to provide expanded local-into-local and HDTV services to its customers.[21]

6. *Review of EchoStar's Applications*. In the *EchoStar Blanket Authorization*, the Bureau examined the public interest in allowing the Anik F3 space station to provide satellite service in the United States from the 118.7º W.L. orbital location, considering the effect on competition in the United States, eligibility and operating requirements, spectrum availability, and national security, law enforcement, foreign policy, and trade concerns.[22] The Bureau found that grant of EchoStar's application was in the public interest despite the existence of de jure barriers to U.S.-licensed space stations in the Canadian market.[23] The Bureau also found that operation of Anik F3 in the Ku-band frequencies at the 118.7º W.L. orbital location to provide DTH FSS presented no spectrum availability issues that would preclude authorization. We find that the analysis in the *EchoStar Blanket Authorization* likewise supports grant of SES Americom's and Echostar's requests concerning AMC-16. We find no material difference in the competitive and public interest considerations for Ku-band service to U.S. earth stations from a Canadian-licensed satellite at the nominal 118.7º W.L. orbital location, whether Anik F3 or AMC-16. Consequently, the conclusions we reached in the *EchoStar Blanket Authorization* remain valid for this request. EchoStar and SES Americom indicate that moving AMC-16 to the 118.75º W.L. orbital location will more quickly bring substantial new DTH FSS to U.S. customers in the near term, and will permit delivery of that capacity to a single EchoStar dish for many customers, which would not be possible from the 85º W.L. orbital location.[24] We therefore grant modification of EchoStar's blanket earth station authority to permit reception of Ku-band DTH FSS from AMC-16 at the 118.75º W.L. orbital location.

7. We also grant authority for EchoStar to provide feeder links to the AMC-16 space station from EchoStar's two nine-meter Ku-band earth stations located in Cheyenne, Wyoming.[25] In the *EchoStar Blanket Authorization*, the Bureau found that these antennas comply with our technical rules, including the two-degree spacing technical standards, and authorized EchoStar to use the antennas to access "ALSAT" and Anik F3 as points of communication. We hereby modify that license to authorize access to AMC-16 as a point of communication at the 118.75º W.L. orbital location.

8. *Review of SES Americom's Applications*. The Commission generally has allowed satellite operators to rearrange satellites in their fleet to reflect business and customer considerations where no public interest factors are adversely affected.[26] Grant of this requested temporary relocation will allow

[20] SES Americom Application at p. 8.

[21] *Id.*

[22] *EchoStar Blanket Authorization*, DA 05-3227 at ¶ 8.

[23] *Id.* at ¶ 14.

[24] SES Americom Application at p. 9.

[25] Echostar 9 Meter Hub Earth Station Application, File No. SES-LIC-20050621-00799.

[26] Amendment of the Commission's Space Station Licensing Rules and Policies, *Second Report and Order*, 18 FCC Rcd 12507, 12509 ¶ 7 (2003).

SES Americom to provide interim services to its customer, EchoStar, and will provide EchoStar flexibility in providing improved service to U.S. consumers.

9. Section 25.161(c) of the Commission's rules provides that a space station license will automatically terminate if removal of facilities renders the authorized station not operational for over 90 days, unless specific authority is requested.[27] SES Americom requests waiver of this rule in order to retain its authorization to operate in the Ka-band at the 85° W.L. orbital location. SES Americom indicates that it will resume Ka-band operations by AMC-16 at the 85° W.L. orbital location no later than December 31, 2006.[28] SES Americom asserts that waiver of the rule is justified by the public interests to be achieved, without any adverse impact on users. The Bureau has indicated that Section 25.161(c) is intended to avoid unacceptable lapses in service to customers and to prevent warehousing of scarce orbit and spectrum resources.[29] SES states that the move of AMC-16 is at the request of EchoStar, lessee of the full capacity of the AMC-16 communications payloads, so it has no other customer whose interests are at stake. We conclude that a waiver is warranted. We note that there will be no interruption in Ku-band service from the 85° W.L. orbital location because the AMC-2 satellite is at the 85° W.L. orbital location. With respect to Ka-band operations, because the relocation is for a short duration with a defined end date, and because the temporary use of the satellite at a different orbital location will facilitate improved service to the satellite's current customer, without any lapse in service,[30] we grant the requested waiver of Section 25.161(c). The grant of the waiver, however, is conditioned upon AMC-16 returning to the 85° W.L. orbital location no later than December 31, 2006.

10. We have exchanged letters with Industry Canada in order to ensure that there is a mutual understanding regarding the operation of the AMC-16 satellite. The understandings, and the factual background for these understandings, are provided as Annex A and are material considerations for the authorization contained in this Order.

IV. ORDERING CLAUSES

11. IT IS ORDERED that EchoStar Satellite, LLC's request, File No. SES-MFS-20050624-00813, to modify its authorization, Call Sign E040344, IS GRANTED[31] and EchoStar Statellite, LLC is authorized to receive Ku-band Direct-To-Home Fixed Satellite Service from the Canadian-licensed AMC-16 at the 118.75º W.L. orbital location, consistent with the technical parameters specified in its application, and subject to the following conditions:

i. EchoStar is not authorized to provide programming to U.S. customers that it obtains through exclusive agreements entered into with Canadian licensed space station operators, program suppliers, and/or program distributors.

[27] 47 C.F.R. § 25.161(c).

[28] SES Americom Application at p. 10.

[29] *See* VisionStar Incorporated, *Memorandum Opinion and Order*, 19 FCC Rcd 14820, 14825 ¶ 12 (Int'l Bur. 2004); Tempo Satellite, Inc., *Memorandum Opinion and Order*, 13 FCC Rcd 11069, 11072 ¶ 10 (Int'l Bur. 1998).

[30] SES Americom Application at p. 10.

[31] Consistent with Satellite Division practice, contemporaneously with the release of this order, the Systems Analysis Branch will issue documents with respect to the earth station facilities addressed by this order. Those documents will incorporate conditions adopted by this order, specify more detailed technical parameters for such operations, and list a number of standard conditions that apply to such operations.

ii. EchoStar must comply with all rules applicable to other Commission licensees (*e.g.*, the public interest obligations of DTH FSS providers in the Ku-band, 47 C.F.R. § 25.701).

12. IT IS FURTHER ORDERED that EchoStar Satellite, LLC's request, File No. SES-LIC-20050621-00799, as amended by SES-AMD-20051118-01601, IS GRANTED, and Echostar's earth station authorization, Call Sign E050181, IS MODIFIED to specify the AMC-16 space station at 118.75º W.L. orbital location as an authorized point of communication in the 11.7-12.2 GHz/14.0-14.5 GHz frequency band subject to the following condition:

> Communications between the Cheyenne, Wyoming earth station(s) and the AMC-16 and Anik F3 satellites shall be in compliance with the satellite coordination agreements reached between Canada and other administrations.

13. IT IS FURTHER ORDERED that SES Americom, Inc.'s request, File No. SAT-MOD-20050621-00132, as amended by SAT-AMD-20051115-00218, to conduct Telemetry, Tracking and Control functions during relocation of the AMC-16 satellite from the 85º W.L. orbital location to the 118.75º W.L. orbital location and during the satellite's subsequent return to the 85º W.L. orbital location IS GRANTED, and SES Americom, Inc.'s authorization for AMC-16, Call Signs S2181, IS MODIFIED, subject to the following conditions:

i. During the drift to the 118.75º W.L. orbital location, and during the return drift back to the 85º W.L. orbital location, SES Americom, Inc. shall not operate the main communications payload on AMC-16.

ii. SES Americom, Inc. shall coordinate all drift orbit Telemetry, Tracking, and Control operations with other potentially affected in-orbit operators.

iii. During relocation of the AMC-16 satellite, operations shall be on a non-harmful interference basis, meaning that SES Americom, Inc. shall not cause interference to, and shall not claim protection from interference caused to it by, any other lawfully operating satellites.

iv. In the event that any harmful interference is caused as a result of operations during the relocation of the AMC-16 satellite, SES Americom, Inc. shall cease operations immediately upon notification of such interference and shall inform the Commission immediately, in writing, of such an event.

14. IT IS FURTHER ORDERED that SES Americom, Inc.'s requests, File Nos. SES-MFS-20050622-00803, as amended by SES-AFS-20050713-00909 and SES-AMD-20051115-0157; and SES-MFS-20050622-00804, as amended by SES-AFS-20050713-00910, and SES-AMD-20051115-0156, for authority for earth station operations for Telemetry, Tracking and Control functions with AMC-16 at the 118.75º W.L. orbital location, ARE GRANTED, and SES Americom, Inc.'s authorizations, Call Signs E040368, E040407, ARE MODIFIED to authorize such operations.

15. IT IS FURTHER ORDERED that SES Americom, Inc.'s request to waive Section 25.161(c) of the Commission's rules, 47 C.F.R. § 25.161(c), is GRANTED. SES Americom, Inc. shall continue to be authorized to operate the AMC-16 satellite in Ka-band frequencies at the 85º W.L. orbital location, and shall resume those operations upon the relocation to that location, no later than December 31, 2006. If SES Americom, Inc. does not resume operating in Ka-band frequencies at the 85º W.L. orbital location by that date, or if Ku-band operations at the at the 85º W.L. orbital location are not operational for 90 days or more, the authorization will be automatically terminated.

16. IT IS FURTHER ORDERED that SES Americom, Inc. shall inform the Commission, through a letter to the Chief, Satellite Division, FCC, within five business days following the date on which the AMC-16 satellite departs the 85° W.L. orbital location, and again within five business days following the return of the AMC-16 to the 85° W.L. orbital location.

17. SES Americom, Inc. is afforded thirty days to decline these authorizations as conditioned. Failure to respond within this period will constitute formal acceptance of the authorizations as conditioned.

18. This Order is issued pursuant to authority delegated in Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau

ANNEX A

Federal Communications Commission
Washington, DC 20554

International Bureau

March 21, 2006

Ms. Chantal Beaumier
Director, Space and International Regulatory Activities
Radiocommunications and Broadcasting Regulatory Branch
Industry Canada
15th Floor, 300 Slater Street
Ottawa, Ontario, Canada
K1A 0C8

Re: Operations of the AMC-16 Space Station

Dear Ms. Beaumier:

This letter is to confirm the informal understandings of the Canadian Department of Industry (Industry Canada) and the Federal Communications Commission (FCC) concerning certain technical issues involved in the operation of a geostationary satellite known as AMC-16 by SES Americom, Inc. (SES Americom) and Telesat Canada (Telesat), pursuant to agreements between and among SES Americom, Telesat, and EchoStar Satellite, L.L.C. (EchoStar).

The Transaction by and among SES Americom, Telesat, and EchoStar

SES Americom currently operates the AMC-16 satellite at the 85° W.L. orbital location, subject to FCC authority.

Pursuant to a Memorandum of Agreement (Agreement) by and among Telesat, EchoStar and SES Americom, dated as of June 20, 2005, it is contemplated that SES Americom will move its AMC-16 satellite from the 85° W.L. orbital location to the 118.75° W.L. orbital location. The Agreement contemplates that, at that location, the satellite will operate under Telesat's direction and control pursuant to an authorization issued by Industry Canada to Telesat, and that AMC-16 will be used to provide service to EchoStar customers until Telesat launches and brings into operation the Anik F-3 satellite at the 118.7° W.L. orbital location. Telesat and EchoStar have entered into a separate service agreement under which Telesat agreed to provide Ku-band capacity to EchoStar at the 118.7° W.L. orbital location.

The Agreement specifies that the AMC-16 space station will be removed from the 118.75° W.L. orbital location no later than 30 days following the date EchoStar and SES Americom receive notice from Telesat that it has completed in-orbit testing of Anik F3 and has transferred customer traffic from AMC-16 to Anik F-3. The Agreement will

continue until Anik F-3 or another interim satellite is operational, unless the AMC-16 space station suffers an operational failure and is moved out of the 118.75° W.L. position or unless EchoStar wishes to relocate the AMC-16 space station for another use.

The Agreement provides that SES Americom will operate AMC-16, performing telemetry, tracking, and command functions from earth stations in the United States, under Telesat's direction and control. The Agreement also requires SES Americom to take any necessary steps to comply with U.S. export control regulations.

The 1988 Trilateral Arrangement designated the 118.7° W.L. orbital location for Ku-band Fixed-Satellite Service (FSS) use by Canada.[1] On October 1, 2001, Industry Canada awarded Telesat an approval in principle for a new C, Ku- and Ka-band communications satellite at the 118.7° W.L. orbital location. On March 1, 2006, Industry Canada authorized Telesat Canada to operate AMC-16, using Ku-band spectrum only, on an interim basis until Telesat's new satellite, Anik F3, is brought into use at the 118.7° W.L. orbital location.

Informal Understandings between Industry Canada and the FCC on certain technical issues concerning operation of AMC-16

It is my understanding that our two agencies have concurred on the following technical issues concerning the operation of AMC-16:

1. At the 118.75° W.L. orbital location, the AMC-16 spacecraft will operate on Ku-band frequencies only, subject to Canadian authority. The Canadian administration will have responsibility for compliance with the ITU Radio Regulations (including the requirement for licensing as specified in Article 18.1 of the Radio Regulations, and any applicable agreement-seeking procedures) in connection with operation of Ku-band frequencies on the AMC-16 satellite at the 118.75° W.L. orbital location.

2. Operation of the AMC-16 satellite at any location other than at the 118.75° W.L. orbital location will be subject to licensing by the FCC, including any operations as a result of equipment failure in the satellite that results in the inability to maintain the satellite within ±0.05 degrees of its assigned position at the 118.75° W.L. orbital location.

3. Industry Canada, through the Director, Space and International Regulatory Activities, once the Canadian licensee has been informed, will provide the FCC with four (4) days' advance written notice (e-mail with confirmed receipt from the FCC's Chief, Satellite Division, International Bureau, will be considered

[1] Trilateral Arrangement Regarding the Use of the Geostationary Orbit by Canada, Mexico, and the United States, Public Notice, Mimeo No. 4406 (rel. Sept. 2, 1998) ("Trilateral Arrangement").

sufficient) of any planned termination or expiration of the Canadian License for the AMC-16 satellite.

4. Industry Canada will condition the AMC-16 License to require Telesat to maintain, barring catastrophic failure of satellite components, the capability to de-orbit the AMC-16 spacecraft to an orbit consistent with ITU Recommendation S.1003-1, Environmental Protection of the Geostationary-Satellite Orbit.

The informal understandings set forth in this letter concerning operation of Ku-band frequencies on the AMC-16 satellite do not constitute a concurrence by the FCC or the United States Administration with any Canadian filings with the ITU Radiocommunication Bureau at the 118.7° W.L. orbital location. It is my understanding that the FCC and Industry Canada will, separately, and as part of the agreement-seeking process applicable under the ITU Radio Regulations, work in good faith to complete that process, insofar as necessary, in connection with the operation of the AMC-16 satellite at the nominal 118.7° W.L. orbital location.

The FCC has not issued any of the authorizations that would be necessary to provide direct-to-home services to customers in the United States using the AMC-16 satellite at the 118.75° W.L. orbital location. The FCC has received an application for modification of the license for the AMC-16 satellite, to temporarily relocate it to the 118.75° W.L. orbital location. The FCC has also received an application for a blanket authorization of earth stations seeking to receive direct-to-home transmissions in the United States from the AMC-16 satellite at the 118.75° W.L. orbital location. These applications will require separate action by the FCC. This exchange of letters does not constitute approval of any of these applications.

In the event that there are any provisions in Telesat's license from Industry Canada, or any provisions in the Canadian laws and regulations governing the telecommunications operations of Telesat Canada that would preclude or otherwise limit the exercise of Echostar's or SES Americom's contractual rights within the time frames specified in the Agreement, the FCC would appreciate the opportunity to consult with Industry Canada, prior to any exercise of such licensing authority, or applications of such law or regulations by Industry Canada. I would appreciate acknowledgment of these views and expression of any views which Industry Canada may have concerning the matter discussed in this paragraph. Let me also express the FCC's willingness to discuss this matter further, in the event, at a later date, it becomes necessary to do so.

Lastly, all notices, inquiries, and correspondence from Industry Canada concerning these matters should be directed to the Chief, Satellite Division, International Bureau (phone number 202.418-2341) (e-mail: Robert.Nelson@fcc.gov, with a copy to Andrea.Kelly@fcc.gov and Mark.Young@fcc.gov), on the part of the FCC. The FCC will forward all notices, inquiries, and correspondence concerning these matters to the Director, Space and International Regulatory Activities (phone number 613.998-3819) (e-

mail beaumier.chantal@ic.gc.ca) on the part of Industry Canada. Please let us know if this address subsequently changes.

If the foregoing corresponds to your understanding of the informal arrangements between our two agencies concerning the various technical issues involved in the temporary operation of Ku-band frequencies on AMC-16 at the 118.75° W.L. orbital location, please confirm by return letter. Thank you.

Sincerely,

Robert G. Nelson
Chief
Satellite Division

cc: Paul Bush
Vice President, Broadcasting & Corporate Development
Telesat Canada

Nancy J. Eskenazi
Vice President and Associate General Counsel
SES Americom, Inc.

Industry Canada Industrie Canada

300 Slater Street
Ottawa, ON K1A 0C8

Our File: 05943-1 (54873 RH)

MAR 23 2006

Mr. Robert Nelson
Chief, Satellite Division
International Bureau
Federal Communications Commission
Washington, D.C. 20554

Dear Mr. Nelson:

Thank you for your letter of March 22, 2006 setting out our informal common understandings concerning certain technical issues involved in the operation of a broadcasting-satellite service satellite known by Telesat Canada and SES Americom, Inc. as AMC-16.

I am pleased to provide my confirmation of our informal understandings and acknowledgement of the other views expressed in your letter.

I also note from your letter that in the event there are any provisions in Telesat's license from Industry Canada, or any provisions in the Canadian laws and regulations governing the telecommunications operations of Telesat Canada that would preclude or otherwise limit the exercise of Echostar's and SES Americom's contractual rights within the time frames specified in the Agreement, the FCC would appreciate the opportunity to consult with Industry Canada, prior to any exercise of such licensing authority, or applications of such law or regulations by Industry Canada. To the extent possible under the circumstances and the law, Industry Canada will inform the FCC of the exercise of licensing authority, or application of law or regulation by Industry Canada, that would preclude or otherwise limit the exercise of SES Americom's contractual rights within the time frames specified in the Agreement.

...2

Canada

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Once again, I want to express my appreciation for the support your administration is giving to this kind of commercial arrangement to facilitate the delivery of important and valuable satellite services.

Sincerely,

Chantal Beaumier
Director, Space and International
Regulatory Activities

c.c. Robert Power, Telesat Canada