

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
<b>TELENOR SATELLITE, INC.</b>	)	File No. SES-MFS-20051123-01626
	)	File No. SES-MFS-20051123-01627
Applications for Authority to Access the	)	File No. SES-MFS-20051123-01629
Inmarsat 4F2 Satellite at 52.75° W.L.	)	File No. SES-MFS-20051123-01630

To: International Bureau

**OPPOSITION**

Telenor Satellite, Inc. (“Telenor”) hereby opposes the Petition to Hold in Abeyance (“Petition”) filed by Mobile Satellite Ventures Subsidiary LLC (“MSV”) in this proceeding.

**I. INTRODUCTION AND SUMMARY**

The Applications at issue in this proceeding seek license modifications to allow the earth stations at Telenor’s Southbury, CT teleport (KA312, KA313, WA28 and WB36) to communicate with the Inmarsat 4F2 satellite, which was launched on November 8, 2005 and is being deployed at the 52.75° W.L. orbital location. Grant of Telenor’s Applications is in the public interest because it will allow Telenor to continue providing its customers with Inmarsat’s existing and evolved (“E&E”) services, which were previously offered via the Inmarsat 3F4 satellite at 54° W.L.<sup>1</sup> Telenor’s customers for these services include the Office of the President, the U.S. Navy, the U.S. Coast Guard, the U.S. Air Force, the National Guard, the Department of State and the Department of Homeland Security, as well as commercial shipping, fishing, oil and gas, and media companies.

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<sup>1</sup> Access to Inmarsat 4F2 will also enable Telenor to offer Inmarsat’s Broadband Global Area Network (“BGAN”) service in the United States. However, BGAN service will not be provided through Telenor’s Southbury earth stations and thus is not covered by these Applications.

As the Commission is aware, Inmarsat plans to move Inmarsat 3F4 to 142° W.L. to replace an Inmarsat 2 satellite that is running out of fuel and needs to be decommissioned. The Commission has granted (or is currently considering) STAs allowing the migration of E&E services from Inmarsat 3F4 to Inmarsat 4F2, but permanent authorizations are also needed to ensure continuity of service.

Significantly, the services to be provided pursuant to these Applications will be provided on Inmarsat 4F2 over the same frequencies that were used on Inmarsat 3F4. Moreover, they will employ EIRP spectral densities that are no greater than those used previously, and will be offered in a manner consistent with the technical parameters established in 1992 under which Inmarsat has successfully coexisted with MSV for years without causing harmful interference.

MSV, in the latest of a long series of pleadings, seeks to use the applications process as leverage in its ongoing dispute with Inmarsat over the use of L-band frequencies.<sup>2</sup> That dispute, however, should be resolved through the coordination mechanism established by the Mexico City Memorandum of Understanding (“Mexico City MOU”). Contrary to MSV’s claims, a new international L-band coordination agreement is not needed before Telenor’s Applications can be granted. Indeed, two MSV satellite applications were granted last year on a non-interference basis and in the absence of a new coordination agreement. There is no reason to treat the Telenor Applications differently. Moreover, it would contravene U.S. WTO obligations to use the Commission’s licensing processes to provide MSV with leverage in international coordination negotiations.

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<sup>2</sup> MSV’s Petition, like its prior filings on the Inmarsat 4F2, relies in large part on confidential information that has not been provided to Telenor. We previously filed a Motion to Strike in which we pointed out that we simply cannot respond fully to MSV’s arguments unless we have access to that confidential information. We have not filed such a motion in this proceeding in order to facilitate expeditious consideration of our Applications. However, we continue to maintain that, at a minimum, the Bureau should not rely on any confidential information in reaching its decision on these Applications.

## **II. GRANT OF THE APPLICATIONS WILL ENABLE TELENOR TO CONTINUE PROVIDING ESSENTIAL SERVICES TO ITS CUSTOMERS.**

The services being transitioned from Inmarsat 3F4 to Inmarsat 4F2 include Inmarsat B, Inmarsat C, Inmarsat Mini-M and Aero Mini-M, GAN, Aero-H and H+, Aero-I, and Swift. Each of those services is currently used by Telenor's customers to meet critical telecommunications needs via Inmarsat 3F4, and each of those services will continue to be needed in the future.

Telenor provides Inmarsat B services to the U.S. Navy and U.S. Coast Guard, as well as to commercial shipping companies, to support communications to and from ships at sea. In addition, Telenor provides Inmarsat B services to the U.S. State Department at American embassies worldwide. Telenor also furnishes Inmarsat B services to the Department of Homeland Security and the National Guard, which use them to support anti-terrorist, disaster recovery and other activities.

Telenor's Inmarsat C services support GMDSS, the Global Marine Distress and Safety System. These services also aid in tracking fishing fleets in U.S. territorial waters and commercial shipping approaching the U.S. coastline.

Telenor's Mini-M, Aero-M and GAN services are used by every branch of the U.S. military in support of training and deployment to Iraq, Afghanistan and around the world. These services are also used by the State Department, DHS and the National Guard, as well as by news organizations covering events in Iraq, Afghanistan and elsewhere.

Telenor's Aero-I service is used by the Air Mobility Command, which is the Air Force component of the U.S. Transportation Command. Telenor's Aero-H and H+ services, as well as Swift services, are used aboard U.S. Presidential aircraft, including Air Force One, both by government officials and by journalists covering the President. Aero-H and Swift services are also used by the 89<sup>th</sup> Air Wing to support the Administration, Congress and flag officers of the

different services. In addition, these services are used to support the U.S. military's Commanders in Chief (CINCs) and other classified airborne assets.

Disruption of any of these services would be costly, and in many cases service interruption would have an adverse effect on vital national interests. Moreover, as demonstrated below, grant of these Applications will not cause harm to any other party, including MSV. Accordingly, grant of these Applications will serve the public interest, convenience and necessity.

### **III. INMARSAT 4F2 WILL NOT CAUSE HARMFUL INTERFERENCE TO MSV.**

Telenor's Applications provide a full technical description of the services that will be provided over Inmarsat 4F2, including all of the technical information required by Part 25 of the Commission's Rules. Moreover, Inmarsat has confirmed that, for the E&E services that are the subject of these Applications, Inmarsat 4F2 can and will operate over the same frequencies, using the same terminal types, and within the same technical envelope as Inmarsat 3F4. In particular, the EIRP spectral density of the services to be transitioned to Inmarsat 4F2 (and thus, the potential co-channel emissions generated toward MSV) will be no greater than the EIRP spectral density of the same services as provided on Inmarsat 3F4.

Since the expiration of the 1999 L-band spectrum sharing agreement, Inmarsat and MSV have shared spectrum on a co-channel basis without harmful interference. Moreover, the Inmarsat L-band network at 54° W.L. has been coordinated with MSV and notified to the ITU. The relocation of that network to 52.75° W.L. will have no adverse impact on MSV, and MSV's Petition (though rife with speculation)<sup>3</sup> contains no evidence to the contrary. Indeed, two of

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<sup>3</sup> See, e.g. Petition at 13-16.

MSV's three "interference" arguments do not raise interference concerns at all,<sup>4</sup> and the third has been dealt with by Inmarsat's commitment to provide E&E services via Inmarsat 4F2 within the same technical envelope as on Inmarsat 3F4. Thus, Telenor's Applications should be granted, subject only to the condition that service be provided on a non-harmful interference basis in the absence of an L-band spectrum sharing agreement.

#### **IV. A NEW L-BAND COORDINATION AGREEMENT IS NOT A PREREQUISITE TO A GRANT OF TELENOR'S APPLICATIONS.**

MSV again asserts that action on Telenor's Applications should be delayed until the conclusion of a L-band coordination agreement.<sup>5</sup> However, the absence of such an agreement is no bar to action on pending L-band applications, as MSV's own experience demonstrates. In the past twelve months, the Bureau has granted two MSV applications to operate in the L-band – one for a replacement satellite at 101° W.L., and the other for a new satellite (not contemplated by the Mexico City MOU) at 63.5° W.L.<sup>6</sup> Rather than delay action on either application, the Bureau granted both on a non-interference basis.<sup>7</sup> Telenor merely asks that the Bureau treat its Applications in a similar manner.

Inmarsat 4F2 is licensed by the United Kingdom, a WTO Member. Therefore, the Commission must afford the same treatment to Inmarsat service providers such as Telenor that it does to MSV. To do otherwise would be a violation of U.S. market access commitments in the

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<sup>4</sup> MSV claims interference due to Inmarsat's continued use of so-called "loaned spectrum," Petition at 11-13, and also from Inmarsat's proposal to operate across the entire L-band, Petition at 16-18. But it is undisputed that the provision of E&E services via Inmarsat 4F2 will not cause harmful interference to MSV's existing operations as long as those services are provided using the same frequencies and technical envelope as on Inmarsat 3F4. In reality, these are spectrum allocation issues, not interference issues, and they should be dealt with through the processes established in the Mexico City MOU and not in these license proceedings.

<sup>5</sup> Petition at 8-11.

<sup>6</sup> *Mobile Satellite Ventures Subsidiary LLC*, DA 05-50 (rel. Jan. 10, 2005) ("*MSV 101° Order*"); *Mobile Satellite Ventures Subsidiary LLC*, DA 05-1492 (rel. May 23, 2005) ("*MSV 63.5° Order*").

<sup>7</sup> *MSV 101° Order* at ¶ 59; *MSV 63.5° Order* at ¶ 39.

WTO Agreement. In 1999 and again in 2001, the Commission declined to exact coordination concessions favorable to MSV as the price for U.S. market access, because to do so would violate U.S. WTO commitments.<sup>8</sup> The same principle applies with equal force today.

**V. MSV'S ADDITIONAL ISSUES ARE WITHOUT MERIT.**

**A. The Inmarsat 4F2 Is Properly Regarded as a Replacement Satellite.**

MSV again suggests that Inmarsat 4F2 is not a replacement satellite under the Mexico City MOU.<sup>9</sup> However, as stated previously, the Inmarsat 4F2 will use the same service link frequencies as the Inmarsat 3F4, and will be located only 1.25° from the current location of the Inmarsat 3F4. Thus, Inmarsat 4F2 will serve as an operational substitute to, and will operate within the umbrella of the technical parameters previously coordinated for, its predecessor, Inmarsat 3F4. For these reasons, the Inmarsat 4F2 can properly be considered as a replacement satellite under the Commission's Rules.

**B. There Is No Station-Keeping Issue with Respect to Inmarsat 4F2.**

MSV now concedes that the Commission's +/- 0.05 east-west station-keeping rule, 47 C.F.R. § 25.210(j), does *not* apply to MSS satellites.<sup>10</sup> Yet, it still maintains that Telenor must seek a waiver of this rule. That makes no sense, and MSV does not attempt to explain why the Commission should impose station-keeping conditions on a case-by-case basis. In any event, Inmarsat has coordinated the operation of Inmarsat 4F2 with adjacent operators and has ensured

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<sup>8</sup> See *Satcom Systems, Inc., et al.*, 14 FCC Rcd 20798, 20813 (1999) (“*TMI Market Access Order*”); *COMSAT Corp. d/b/a COMSAT Mobile Communications et al.*, 16 FCC Rcd. 21661, 21669 (rel. Oct. 9, 2001) (“*Inmarsat Market Access Order*”). See also *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites to Provide Domestic and International Satellite Services in the United States*, 12 FCC Rcd. 24094, 24104 (1997) (“*DISCO-IP*”).

<sup>9</sup> Petition at 18-19.

<sup>10</sup> Petition at 19-20.

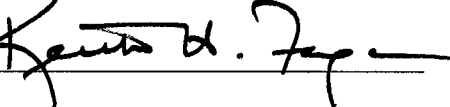
that the station-keeping boxes do not overlap. Accordingly, the Telenor Applications do not raise any station-keeping concerns.

#### **IV. CONCLUSION**

For the reasons stated above, the Bureau should dismiss or deny the MSV Petition and should promptly grant the Telenor Applications.

Respectfully submitted,

**TELENOR SATELLITE, INC.**

By 

Keith H. Fagan  
1001 Wootton Parkway  
Rockville, MD 20852  
(301) 838-7860

Its Attorney

January 20, 2006

## CERTIFICATE OF SERVICE

I, Keith H. Fagan, hereby certify that on this 20<sup>th</sup> day of January, 2006, I served a copy of the foregoing "Opposition" by first class mail, postage prepaid, upon the following:

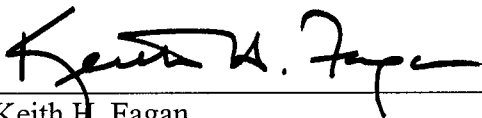
Bruce D. Jacobs  
David S. Konczal  
Pillsbury Winthrop Shaw Pittman LLP  
2300 N Street, N.W.  
Washington, D.C. 20037

Jennifer A. Manner  
Vice President, Government Affairs  
Mobile Satellite Ventures Subsidiary LLC  
1002 Park Ridge Boulevard  
Reston, VA 20191

John P. Janka  
Jeffrey A. Marks  
Latham & Watkins LLP  
555 Eleventh Street, N.W.  
Suite 1000  
Washington, D.C. 2004

Diane J. Cornell  
Vice President, Government Affairs  
Inmarsat, Inc.  
1100 Wilson Boulevard  
Suite 1425  
Arlington, VA 22209

Alfred M. Mamlet  
Marc A. Paul  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036

  
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Keith H. Fagan