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April 18, 2006

**Via Hand Delivery**

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

**Re: Reply of Mobile Satellites Ventures Subsidiary LLC  
File No. SES-MFS-20060130-00172 (Call Sign KA249)**

Dear Ms. Dortch:

Mobile Satellites Ventures Subsidiary LLC (“MSV”) hereby files this redacted, public version of a Reply to the Oppositions to MSV’s Petition to Hold in Abeyance the above-referenced application of Telenor Satellite, Inc. (“Telenor”) to operate a fixed earth station with the Inmarsat 3F4 satellite which has recently been relocated to 142°W.<sup>1</sup> As discussed herein, certain information provided in the attached Petition should be treated as confidential.<sup>2</sup>

**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 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 and MSV.<sup>3</sup> When considering other applications to use Inmarsat satellites in the United States, the Commission has acknowledged the confidentiality of this information and has afforded it confidential treatment.<sup>4</sup>

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<sup>1</sup> See Telenor Satellite, Inc., Application, File Nos. SES-MFS-20060130-00172 (Call Sign KA249) (January 30, 2006) (“*Telenor Application*”).

<sup>2</sup> 47 C.F.R. § 0.459(b).

<sup>3</sup> 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.

<sup>4</sup> See *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661, ¶¶ 111 (2001) (“*COMSAT Order*”) (“The Mexico City Agreement and related

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- 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 Reply to the Oppositions to MSV's Petition to Hold in Abeyance the above-referenced Telenor 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.<sup>5</sup>

- 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.

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Footnote continued from previous page

coordination documents, such as minutes of coordination meetings, are considered confidential.”).

<sup>5</sup> *Id.*

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

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

In the matter of )  
 )  
Telenor Satellite, Inc. )  
Application for Modification of Fixed Earth Station ) File No. SES-MFS-20060130-00172  
License to Operate with Inmarsat 3F4 at 142°W ) (Call Sign KA249)

**REPLY TO OPPOSITIONS TO PETITION TO HOLD IN ABEYANCE**

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this Reply to the Oppositions of Telenor Satellite, Inc. (“Telenor”) and Inmarsat Ventures Limited (“Inmarsat”) to MSV’s Petition to Hold in Abeyance the above-referenced application.<sup>1</sup> In its application, Telenor seeks to modify a fixed earth station license to permit operation with the Inmarsat 3F4 satellite which has recently been relocated to 142°W. The license currently authorizes transmit and receive operations using C band frequencies, and receive-only operations using frequencies in the Global Positioning System (“GPS”) band (1574-1576 MHz) and the MSS L band (1545.8-1548 MHz). Operation of the earth station is limited to “digital data and feederlink” operations to support the Federal Aviation Administration’s Wide Area Augmentation System program (“FAA/WAAS”).

On March 24, 2006, MSV filed a Petition to hold the Telenor application in abeyance until Inmarsat coordinates with MSV and MSV Canada the operation of its Inmarsat 3F4 satellite at 142°W, including the proposed use of the 1545.8-1548 MHz band.<sup>2</sup> MSV explained that the

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<sup>1</sup> See Telenor Satellite, Inc., Opposition, File No. SES-MFS-20060130-00172 (Call Sign KA249) (April 6, 2006) (“*Telenor Opposition*”); Inmarsat Ventures Limited, Opposition, File No. SES-MFS-20060130-00172 (Call Sign KA249) (April 6, 2006) (“*Inmarsat Opposition*”).

<sup>2</sup> See Mobile Satellite Ventures Subsidiary LLC, Petition to Hold In Abeyance, File No. SES-MFS-20060130-00172 (Call Sign KA249) (March 24, 2006).

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proposed frequencies are among those MSV and MSV Canada have coordinated for their use in North America, and Telenor has failed to even attempt to demonstrate that its proposed operations could share spectrum with those of MSV and MSV Canada. Both Telenor and Inmarsat filed Oppositions to MSV's Petition explaining that Telenor does not need access to MSS L band frequencies for the FAA/WAAS operations authorized under this license, but that the Bureau should nonetheless authorize Telenor to use any portion of the 1545.8-1548 MHz band segment "currently being utilized by Inmarsat."<sup>3</sup>

Telenor has made clear that it does not need access to the MSS L band frequencies specified in its current license for the FAA/WAAS program or any other purpose.<sup>4</sup> Accordingly, to the extent the Bureau grants this application, it should authorize operation in the C band and GPS band only, and specifically preclude Inmarsat from transmitting and Telenor from receiving in the MSS L band using the relocated Inmarsat 3F4 satellite at 142°W.

Despite the fact that Telenor has no need to access the MSS L band frequencies specified in its current license, Inmarsat and Telenor claim that Telenor nonetheless should have the ability to use any portion of the 1545.8-1548 MHz band segment that is "currently being utilized by Inmarsat."<sup>5</sup> Telenor and Inmarsat are silent as to what services Telenor would provide using these downlink frequencies nor do they explain the public interest benefits that would result. Nonetheless, even assuming that Telenor had a legitimate reason for using these MSS L band frequencies, the Bureau should still deny Telenor's application for two reasons.

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<sup>3</sup> *Telenor Opposition at 2; Inmarsat Opposition at 2*

<sup>4</sup> *Telenor Opposition at 1* ("Those frequencies [1545.8-1548 MHz] are no longer needed for the FAA/WAAS program.").

<sup>5</sup> *Telenor Opposition at 2; Inmarsat Opposition at 2.*

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First, when Inmarsat and Telenor state that they should be able to use any frequencies in the 1545.8-1548 MHz band segment “currently being utilized by Inmarsat,” they seek access to the loaned-but-recalled frequencies that Inmarsat continues to use illegally.<sup>6</sup> 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 U.S.-based customers, which Inmarsat is cynically using as hostages. In this case, there can be no justification for Inmarsat’s proposed use of the loaned-but-recalled frequencies considering that neither Inmarsat nor Telenor can explain how or why they would use these frequencies with the fixed earth station license at issue here.

Second, the application seeks authority to access the uncoordinated Inmarsat 3F4 satellite at 142°W. As MSV has explained in its Petition, the Bureau should not permit use of uncoordinated Inmarsat satellites in the United States unless and until Inmarsat has coordinated those satellites with MSV and MSV Canada.<sup>7</sup> Absent prior coordination, there is a material risk

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<sup>6</sup> The Bureau has recently taken action towards terminating Inmarsat’s illegal use of loaned-but-recalled frequencies. *See, e.g., Telenor STA Grant*, File No. SES-STA-20060119-00064 (Call Sign E000284) (January 19, 2006), at ¶ 3. 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 id.*

<sup>7</sup> *See* Mobile Satellite Ventures Subsidiary LLC, Reply, File No. SES-MFS-20060118-00050 et al (March 28, 2006). The *MSV-SA* case does not support grant of an application to operate with the uncoordinated Inmarsat 3F4 at 142°W prior to coordination. *Cf. Inmarsat Opposition* at 2 (citing *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-50 (January 10, 2005) (“*MSV-SA*”). In the *MSV-SA* case, no entity claimed that the satellite would cause harmful interference. Moreover, the *MSV-SA* satellite is years away from launch, thus making it reasonable for the Commission to conclude that any interference issues will be resolved through

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of interference to other L band operators from Inmarsat's uncoordinated operations. While Inmarsat claims that it has been operating an Inmarsat-2 satellite at 142°W for four years allegedly without any interference, this is no comfort for MSV at all even assuming this claim is accurate. As an initial matter, Inmarsat never coordinated the Inmarsat-2 satellite at 142°W. Moreover, from a technical perspective, the Inmarsat 3F4 satellite is materially different than the Inmarsat-2 satellite it is allegedly replacing, and is more likely both to cause interference to and to suffer interference from other L band systems relative to the Inmarsat-2 satellite. Inmarsat claims that the ITU Radio Regulations permit it to replace a "dying satellite with one that will operate in a technically consistent manner," but there is no evidence explaining whether and how Inmarsat can operate the Inmarsat 3F4 and the Inmarsat-2 satellites in a technically consistent manner.<sup>8</sup> There is no established and agreed-to technical basis for the operation of the Inmarsat-

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coordination prior to actual operation. Conversely, an earth station application such as that presented here is fundamentally different because it means that operation of the uncoordinated satellite and the resulting harmful interference are imminent. Indeed, the Bureau has demonstrated that it will not authorize uncoordinated satellites or services when there is evidence that harmful interference might occur, which is precisely the scenario presented by the operation of the uncoordinated Inmarsat 3F4 satellite 142°W. *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").

<sup>8</sup> Inmarsat and Telenor have failed to provide any technical information regarding the operation of the Inmarsat 3F4 satellite at 142°W. They are required to provide this information because the Commission has not previously authorized the operation of the foreign-licensed Inmarsat 3F4

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2 satellites after the *Mexico City Memorandum of Understanding* (“*Mexico City MoU*”) among the five North American L band MSS operators and their respective Administrations.

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Further, the Inmarsat-2 satellites are fundamentally different than the Inmarsat-3 satellites in major ways. For example, the Inmarsat-2 satellite at 142°W has a global beam only; the Inmarsat 3F4 satellite has a global beam as well as regional beams. The Inmarsat 3F4 satellite has substantially more RF power than the Inmarsat-2 satellite, and to the extent its use is earmarked for the carriage of Inmarsat standard services with low and medium gain mobile terminals (the very services that can only operate in spot beam mode and are expected to enjoy the largest projected growth rate), such use could materially inflate Inmarsat’s demand for L band spectrum. Such services cannot reuse spectrum via orbital separation of the Inmarsat satellites. Accordingly, there is no basis for Inmarsat’s claim that the Inmarsat-2 and Inmarsat-3 satellites are technically and operationally “consistent.” Assuming Inmarsat uses the regional beams on the Inmarsat 3F4 satellite at 142°W, Inmarsat will be required to use additional spectrum because Inmarsat,

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, cannot operate regional and global beams using the same frequencies. Even if Inmarsat uses only the global beam of the Inmarsat 3F4 satellite, the Inmarsat 3F4 satellite has a higher aggregate EIRP than the Inmarsat-2 satellite. Thus, while Inmarsat claims that the ITU Radio Regulations do not require coordination when the technical characteristics of a “new or modified frequency

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satellite at 142°W, nor does the satellite appear on the Permitted Space Station list. See 47 C.F.R. § 25.137(b); *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*”), at ¶ 203.



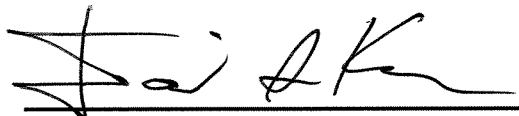
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assignment . . . are within the limits” of what has previously been coordinated, this regulation does not apply to the Inmarsat 3F4 satellite at 142°W because (i) Inmarsat has never previously coordinated a satellite at 142°W; and (ii) even if Inmarsat had coordinated the Inmarsat-2 at 142°W, the Inmarsat 3F4 is technically different than the Inmarsat-2 satellite, making it infeasible for Inmarsat to operate the new satellite within the parameters of its old satellite.<sup>9</sup>

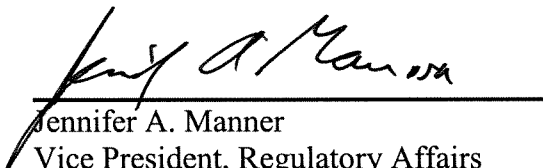
**Conclusion**

Based on the foregoing, the Bureau should limit Telenor’s operations pursuant to this license to transmitting or receiving C band and GPS frequencies only, and specifically preclude Inmarsat from transmitting and Telenor from receiving in the MSS L band using the Inmarsat 3F4 satellite at 142°W until after the conclusion of an L band coordination agreement covering the satellite.

Respectfully submitted,



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Dated: April 18, 2006

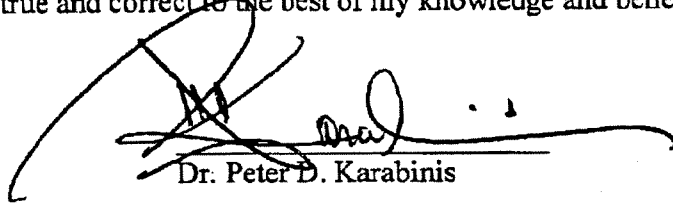
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<sup>9</sup> Cf. *Inmarsat Opposition* at 3 n.5 (citing ITU Radio Regulations, Appendix 5 (Rev. WRC-03), AP-5-2 at ¶ 6(b)(c)). Not surprisingly, Inmarsat does not claim that the Inmarsat 3F4 satellite at 142°W is a replacement satellite under the *Mexico City MoU*. The *Mexico City MoU* does not contemplate the operation of the Inmarsat 3F4 satellite at any orbital location other than 54°W.

**Technical Certification**

I, Dr. Peter D. Karabinis, Senior Vice President and Chief Technical Officer 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 Reply. I am familiar with the Commission's rules, and the information contained in this Reply is true and correct to the best of my knowledge and belief.



Dr. Peter D. Karabinis

Dated: April 18, 2006

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## CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 18th day of April 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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