

Modification of VSAT Authorization, Call Sign E120228

New Cingular Wireless PCS, LLC (“New Cingular”), pursuant to Section 25.117 of the Federal Communications Commission’s (“FCC” or “Commission”) rules,¹ seeks to modify its authorization for VSAT network (call sign E120228). Specifically, New Cingular seeks to add an additional antenna, Raysat model StealthRay 2000. All other information provided in the license application remains unchanged and is incorporated herein by reference.²

Response to Question 39

The applicant is not currently a party to any pending court matter in which it has been accused of a felony or in which it faces the possibility of being finally adjudged guilty of monopolization or attempted monopolization of radio communication. Applicant notes, however, that AT&T, Inc. (“AT&T”) and AT&T Mobility, LLC (“AT&T Mobility”), affiliates of the applicant, are defendants in two cases in which civil plaintiffs have asserted antitrust monopolization and attempted monopolization claims related to radio communication.

In re A2P SMS Antitrust Litigation is pending in the U.S. District Court for the Southern District of New York. Plaintiffs allege that various carriers, including AT&T Mobility, common short code aggregators, and the CTIA conspired to prohibit the transmission of A2P SMS messages through inexpensive 10-digit telephone numbers and to instead require senders of these messages to use common short codes (“CSCs”), to pay much higher lease and transmission charges, and to be subject to content review, thereby allowing the carriers and other defendants to earn much higher revenues than they would otherwise have earned. Plaintiffs also allege that the defendants conspired to monopolize the so-called “market for transmission of A2P SMS” through exclusionary practices. The basic injury allegation is that sending A2P messages would have been essentially free with 10 digit numbers (because short code lessees would have subscribed to unlimited messaging plans for \$20 per month and sent many thousands or hundreds of thousands of monthly messages), but that CSC lessees pay much higher prices of up to \$.03 per message due to the alleged conspiracy. AT&T Mobility’s position is that the claims are meritless. The carrier defendants filed a Motion to Compel Arbitration and a separate Motion to Dismiss the Consolidated Second Amended Complaint on October 9, 2012, and await the Court’s ruling on these motions.

Corr Wireless Communications, L.L.C. et al v. AT&T, Inc. et al is pending before the United States District Court for the Northern District of Mississippi. In this case, Corr Wireless Communications, LLC, Cellular South, Inc., and Cellular South Licenses, LLC allege that

¹ 47 C.F.R. § 25.117.

² New Cingular Wireless PCS, LLC, Application for VSAT Network, File No. SES-LIC-20121108-00995 (filed Nov. 9, 2012) and New Cingular Wireless PCS, LLC, Amendment to VSAT Application, Call Sign E120228, File No. SES-AMD-20130111-00035 (filed Jan. 11, 2013). See *Satellite Communications Services Information; Actions Taken*, Report No. SES-01547, File Nos. SES-LIC-20121108-00995 and SES-AMD-20130111-00035 (Apr. 24, 2013).

AT&T, Inc., AT&T Mobility, LLC, Motorola Solutions, Inc., Motorola Mobility, Inc., and Qualcomm Incorporated engaged in anticompetitive conduct at Third Generation Partnership Project (“3GPP”) by adopting Band 17 (which excludes the plaintiffs’ lower A Block holdings in the 700 MHz spectrum). The Court has already ruled that it does not have personal jurisdiction over AT&T. The Court has also ruled that the plaintiffs’ initial allegations failed to state a claim against AT&T Mobility. The matter continues to be pending, however, because the Court allowed the plaintiffs to file an amended pleading. The AT&T defendants filed a second motion to dismiss for failure to state a claim and a second motion to dismiss for lack of personal jurisdiction. These petitions remain pending. If the Court grants AT&T’s pending motions, a final judgment will likely be entered in favor of both AT&T Mobility and AT&T.

Response to Question E.20

According to 47 C.F.R. § 25.113(c), FAA notification is not required given the low height of this antenna.