

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of	)	
	)	
Viasat, Inc.	)	
	)	
Application for Modification of Earth Station	)	Call Sign E180006
License to Add Satellite Point of	)	
Communication	)	

MODIFICATION OF EARTH STATION LICENSE

By this application, Viasat, Inc. (“Viasat”) requests that the Commission modify Viasat’s existing blanket aeronautical earth station license to permit currently licensed GM40 terminals located on U.S.-flagged aircraft operating outside U.S. airspace (collectively, the “Terminals”) to communicate with an additional satellite point of communication. More specifically, Viasat seeks authority to allow the Terminals to conduct fixed-satellite service (“FSS”) operations with the ViaSat-3F3 satellite located at 158.55° E.L. in the 17.7 – 20.2 GHz and 27.5 – 30 GHz bands.¹

To be clear, Viasat is **not** seeking U.S. market access for the ViaSat-3F3 satellite at this time. Nevertheless, Viasat is providing the information typically required in connection with requests for U.S. market access to facilitate expeditious grant of this application. Viasat does not seek authority to modify any other aspect of the Terminals’ operations—*i.e.*, except as described in this application, all other information on file in connection with the above-referenced license and operation of the Terminals remains unchanged.

¹ 47 C.F.R. § 25.228(g)(2) (requiring ESAA terminals on U.S.-registered civil aircraft operating outside of U.S. airspace to be licensed by the Commission). This application seeks to expand the frequency range in which the Terminals are currently authorized to operate. Viasat has previously provided technical analysis covering this full range.

More specifically, this application includes a completed FCC Form 312 (including various schedules), this narrative, and Exhibits A and B thereto (which provide technical and ownership information not otherwise captured by FCC Form 312).²

I. GRANT WOULD SERVE THE PUBLIC INTEREST

Grant of this application would serve the public interest by allowing Viasat to more effectively meet growing demand for high-speed, high-capacity broadband access aboard aircraft. Among other things, enabling Viasat to communicate with the ViaSat-3F3 satellite would allow Viasat to increase the overall capacity of its satellite broadband network, thereby supporting the increasing demand for faster broadband speeds, and providing the ability to support service to additional aircraft.

Viasat is a U.S. operator headquartered in Carlsbad, California. Viasat has previously demonstrated its qualifications as a Commission licensee of spacecraft and earth station networks, and its commitment to developing technologies that make the most efficient use of spectrum and responding to customers' needs for greater broadband bandwidth and capacity. Viasat is a leading provider of satellite-based broadband services to consumer, enterprise, and government users, and provides these services with a global satellite network consisting both of satellites owned and operated by Viasat and satellite capacity from third-party operators. Viasat has a long history and extensive expertise in providing and developing satellite communications technologies for both military and commercial uses, as well as innovating by improving the performance and bandwidth efficiency of satellite networks.

² Viasat is providing, in Exhibit B to this narrative, information with respect to Viasat's ownership, officers, and directors even though Viasat is **not** seeking a U.S. space station license or authorization to serve the U.S. market with a non-U.S.-licensed space station.

Additionally, as explained in Exhibit A, operations of the Terminals with the ViaSat-3F3 satellite would be compatible with all relevant co-frequency operations—including adjacent geostationary orbit (“GSO”) networks. All Viasat operations using capacity on the satellite would be on a non-common carrier basis.³

II. *DISCO II* SHOWING

Viasat seeks to operate with the ViaSat-3F3 satellite for the limited purpose of serving U.S.-flagged aircraft operating outside the United States. As noted above, at this time Viasat is not seeking U.S. market access for this satellite pursuant to Section 25.137 of the Commission’s rules. Nevertheless, in order to facilitate the expeditious grant of this application, Viasat is providing detailed information sufficient to satisfy the elements of the Commission’s *DISCO II* framework for granting market access to non-U.S.-licensed space stations. Satisfaction of these elements is more than sufficient to justify grant of the limited operations of the Terminals with the ViaSat-3F3 satellite covered by this application.

The ViaSat-3F3 satellite would operate at the 158.55° E.L. orbital location under the authority of the United Kingdom.⁴ As such, operations with ViaSat-3F3 would be covered by the Commission’s *DISCO II* framework if Viasat were to seek U.S. market access for the satellite.⁵ The *DISCO II* analysis includes consideration of a number of factors, such as the effect on competition in the United States, spectrum availability, eligibility requirements,

³ See *Amendment to the Commission’s Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems*, 11 FCC Rcd 2429, at ¶¶ 46-50 (1996).

⁴ Specifically, the ViaSat-3F3 satellite would operate under the UK-KA-159E filing with the International Telecommunication Union.

⁵ See *Amendment of the Commission’s Regulatory Policies to Allow Non- U.S. Licensed Satellites Providing Domestic and International Service in the United States*, 12 FCC Rcd 24094, at ¶¶ 30-49 (1997) (“*DISCO II*”).

technical requirements, national security, law enforcement, foreign policy, and trade concerns.⁶ Each of these elements would weigh in favor of granting U.S. market access for the ViaSat-3F3 satellite, and therefore also justifies grant of more limited authority to facilitate communications with the Terminals on U.S.-flagged aircraft operating outside the United States.

A. Effect on Competition in the United States

In *DISCO II*, the Commission established a rebuttable presumption that it will further competition in the United States to allow non-U.S. satellites authorized by WTO Members to provide services covered by the U.S. commitments under the WTO Basic Telecommunications Agreement.⁷ The United Kingdom is a member of the WTO. Furthermore, Viasat seeks to use the requested spectrum to provide satellite services that are covered by the WTO Basic Telecommunications Agreement.⁸ Accordingly, the presumption in favor of entry would apply if Viasat were to seek U.S. market access for the ViaSat-3F3 satellite.

Grant of this application would similarly enhance competition for satellite service by permitting Viasat to expand the available capacity of its satellite broadband network when serving U.S.-flagged aircraft outside the United States. Grant of this application would therefore improve service quality, increase broadband service options, and foster technological innovation—all public interest factors that the Commission consistently has long relied upon in granting more expansive requests for authority.⁹

⁶ See, e.g., *Telesat Canada, Petition for Declaratory Ruling for Inclusion of Anik F2 on the Permitted Space Station List, Petition for Declaratory Ruling to Serve the U.S. Market Using Ka-band Capacity on Anik F2*, 17 FCC Rcd 25287, at ¶ 6 (2002).

⁷ *DISCO II* at ¶ 39; see also 47 C.F.R. § 25.137(a)(2).

⁸ Viasat does not seek to provide direct-to-home (“DTH”), direct broadcast satellite (“DBS”), or digital audio radio service (“DARS”).

⁹ See, e.g., *Digital Broadband Applications Corp.*, 18 FCC Rcd 9455 (2003); *Pegasus Development Corp.*, 19 FCC Rcd 6080 (2004); *DIRECTV Enterprises, LLC, Request for*

B. Spectrum Availability

Grant of this application is fully consistent with Commission spectrum policies. Viasat would communicate with the ViaSat-3F3 satellite using spectrum in the 17.7-20.2 GHz (space-to-Earth) and 27.5-30.0 GHz (Earth-to-space) band segments.¹⁰ Exhibit A demonstrates that the use of these frequencies when operating the Terminals with the ViaSat-3F3 satellite would be compatible with adjacent systems in the relevant band segments.

C. National Security, Law Enforcement, and Public Safety Matters

Grant of this application is consistent with U.S. national security, law enforcement, and public safety considerations. The satellite's authorization from the United Kingdom is held by Viasat Satellite Holdings Ltd., a direct, wholly owned subsidiary of Viasat. Viasat has a long history of providing satellite communication service to U.S. government and military users.

III. LEGAL AND TECHNICAL INFORMATION

A. Legal Qualifications

Viasat's legal qualifications are set forth in this narrative and in the attached Form 312. Specifically, this narrative and attached Form 312 demonstrate Viasat's satisfaction of the applicable requirements for earth station applicants seeking to communicate with non-U.S.-licensed satellites, including Section 25.114 of the Commission's rules.¹¹ As noted above, Viasat holds numerous Commission licenses, and its legal qualifications are a matter of record before the Commission.

Special Temporary Authority for the DIRECTV 5 Satellite, 19 FCC Rcd 15529 (2004).

¹⁰ As discussed in Exhibit A, gateway and TT&C operations would rely on facilities located outside the United States. As no U.S. authority is needed in connection with these gateway operations, additional detail is not being provided in this application.

¹¹ See 47 C.F.R. § 25.114.

B. Technical Qualifications

Exhibit A to this application includes technical information with respect to the operation of Terminals with the ViaSat-3F3 satellite. Except as specified in Exhibit A for communications with the ViaSat-3F3 satellite, all operations of the Terminals will be consistent with prior authorizations for operation of the Terminals with other satellites. The Commission has repeatedly authorized Viasat to operate licensed facilities, and its technical qualification are otherwise a matter of public record.

C. Orbital Debris Mitigation

Exhibit A to this application includes an orbital debris mitigation showing of the type required by Sections 25.114(d)(14) and 25.137 of the Commission's rules.¹²

IV. ADDITIONAL INFORMATION

A. Milestone, Bond, and Reporting

Because Viasat is not seeking U.S. market access for the ViaSat-3F3 satellite, the requirements of Section 25.137(d) of the Commission's rules regarding milestones, reporting requirements, and surety bond requirements do not apply to this application.¹³ Moreover, even in the case of a request for U.S. market access the bond and milestone requirements would not apply because the ViaSat-3F3 satellite is already in orbit and operating.¹⁴

¹² See *id.* §§ 25.114(d)(14), 25.137(b).

¹³ For the avoidance of doubt, Viasat intends to comply with all applicable service rules for operation of earth stations in the FSS in portions of the Ka band when communicating with the ViaSat-3F3 satellite. 47 C.F.R. § 25.137(d)(3).

¹⁴ To the extent necessary, Viasat seeks a waiver of these requirements. The fundamental purpose of the bond and milestone requirements are to incentivize rapid deployment and deter warehousing of orbital locations, but these issues are simply not implicated by this application.

B. Ownership Information

Information on the ownership of Viasat is available in the attached Exhibit B.

V. REQUEST FOR WAIVERS

Viasat requests the following limited waivers of the Commission's rules. The Commission may grant a waiver if its rules for good cause shown.¹⁵ Waiver is appropriate if (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation would better serve the public interest than would strict adherence to the general rule.¹⁶ Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest. The following waiver requests satisfy these criteria.¹⁷

A. Operations in the 17.3-17.8 GHz Band Segment

Viasat requests waivers of the U.S. Table of Frequency Allocations and the Commission's Ka-band band plan¹⁸ to facilitate operations with ViaSat-3F3 in the 17.7-17.8 GHz band segment. Viasat's operations in the 17.7-17.8 GHz band segment would be on a non-conforming, unprotected basis. Moreover: (i) no BSS satellites have been authorized to operate within four degrees in this band segment, and no applications for such authorization are pending

¹⁵ See 47 C.F.R. § 1.3.

¹⁶ See *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

¹⁷ Additionally, the Commission previously authorized operations of the Terminals with other satellites and granted certain waiver requests subject to Viasat complying with certain licensing conditions. See *Viasat, Inc., Call Sign E180006, ICFS File No. SES-MOD-20191216-01737* (granted Dec. 13, 2019). To the extent necessary, Viasat requests extension of these waivers to operation of the Terminals with ViaSat-3F3 and confirms that all operations of the Terminals with ViaSat-3F3 will be consistent with the conditions of the existing license for the Terminals.

¹⁸ 47 C.F.R. §§ 2.106 and 25.202.

before the Commission; and (ii) no DBS feeder-link satellites have been authorized to operate within six degrees in this band segment, and no applications for such authorization are pending before the Commission. Accordingly, there is good cause for the requested waivers.

Viasat also requests a waiver of Section 25.264 of the Commission's rules.¹⁹ Section 25.264 is intended to facilitate reverse-band operations in the 17.3-17.8 GHz band segment by mitigating interference into DBS receivers, including by requiring that applicants proposing to use the 17.3-17.8 GHz band segment to submit power flux density calculations at the locations of U.S. DBS space stations. As noted above, no DBS feeder-link satellites have been authorized to operate within six degrees in this band segment, and no applications for such authorization are pending before the Commission. As no DBS operations could be materially impacted by the proposed operations, there is good cause for the requested waivers.

B. Operations in the 19.4-19.6 GHz and 29.1-29.25 GHz Band Segments

Viasat requests waivers of the U.S. Table of Frequency Allocations and the Commission's Ka-band band plan²⁰ to facilitate operations with ViaSat-3F3 in the 19.4-19.6 GHz and 29.1-29.25 GHz band segments. Under the U.S. Table, use of these band segments is limited to NGSO MSS feeder links²¹ and the Ka-band band plan does not make these band segments available for ESIM operations.²² Viasat's operations in these band segments would be on a non-conforming, unprotected basis. Moreover, as discussed in Exhibit A, the proposed ESIM operations would be geographically separated from Iridium's NGSO MSS feeder-link

¹⁹ 47 CFR § 25.264.

²⁰ 47 C.F.R. §§ 2.106 and 25.202.

²¹ See 47 C.F.R. § 2.106 n.NG166.

²² See 47 C.F.R. § 25.202(a)(10)(ii).

operations, mitigating the potential for any interference into those operations. Accordingly, there is good cause for the requested waivers.

C. Schedule S

To the extent necessary, Viasat requests a limited waiver to allow submission of a completed Schedule S to FCC Form 312 in non-standard fashion given limitations of the Commission's ICFS interface. Specifically, due to unknown technical issues with ICFS, Viasat has been unable to generate a "standard" instance of Schedule S describing the ViaSat-3F3 payload and associate it with this application. Based on previous guidance from the ICFS helpdesk about this issue, Viasat has included a PDF version of the Schedule S information and the GIMS container file as attachments to the application. Grant of this limited waiver to facilitate submission in this fashion would serve the public interest by enabling the Commission to begin processing the application despite the limitations of ICFS, while still providing the Commission with access to all of the information that would have been provided through a "standard" Schedule S submitted through ICFS (consistent with the underlying purpose of Schedule S).

VI. WAIVER PURSUANT TO SECTION 304 OF THE COMMUNICATIONS ACT

In accordance with Section 304 of the Communications Act of 1934, as amended, Viasat hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

VII. CONCLUSION

For the foregoing reasons, granting Viasat's application to communicate with the ViaSat-3F3 satellite using the Terminals in portions of the Ka band under the authority of the United Kingdom will serve the public interest, convenience, and necessity. Viasat respectfully requests

that the Commission promptly grant this application.

Respectfully submitted,

/s/

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