

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

In the matter of)	
)	
Telenor Satellite Inc.	)	SES-STA-20051216-01756 (Call Sign KA312)
	)	SES-STA-20051216-01757 (Call Sign WB36)
	)	SES-STA-20051216-01758 (Call Sign WA28)
	)	SES-STA-20051216-01759 (Call Sign KA313)
)	
Stratos Communications, Inc.	)	SES-STA-20051216-01760 (Call Sign E000180)
	)	SES-STA-20051216-01761 (Call Sign E010047)
	)	SES-STA-20051216-01762 (Call Sign E010048)
	)	SES-STA-20051216-01763 (Call Sign E010049)
	)	SES-STA-20051216-01764 (Call Sign E010050)
)	
SkyWave Mobile Communications, Corp.	)	SES-STA-20051222-01788 (Call Sign E030055)
)	
)	
Satamatics, Inc.)	SES-STA-20051223-01790 (Call Sign E020074)

CONSOLIDATED RESPONSE OF INMARSAT VENTURES LIMITED

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January 6, 2006

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CONSOLIDATED RESPONSE OF INMARSAT VENTURES LIMITED

Inmarsat Ventures Limited (“Inmarsat”) responds to the Comments of Mobile Satellite Ventures Subsidiary LLC (“MSV”) in these proceedings.

I. INTRODUCTION AND SUMMARY

These proceedings involve requests for special temporary authority (“STA”) to allow the continued provision of existing Inmarsat services by enabling Inmarsat’s recently launched I-4 satellite to replace the I-3 satellite at 54° W.L. that has been providing service to the U.S. for over four years. I-4 was launched on November 8, 2005, and will be ready to replace I-3 on January 15, 2005. Significantly, the services that are the subject of this STA will be provided over the same frequencies currently used on I-3 today, will employ EIRP spectral densities that are no greater than those used today on that same satellite, and otherwise will be offered in a manner consistent with the technical operating parameters established in 1992 under

which Inmarsat has successfully coexisted with MSV, without causing harmful interference, ever since MSV started operating almost a decade ago.

No one opposes the grant of STA. The only entity to comment, MSV, expressly “does not oppose grant of the applications,”¹ but instead asks the Commission to (1) exclude from the grant of STA certain L-Band frequencies that are the subject of an international spectrum dispute between MSV and Inmarsat (thereby effectively resolving that dispute in MSV’s favor); (2) essentially require Inmarsat (a UK-licensed satellite network) to complete ITU coordination with MSV by June 30, 2006 (thereby increasing MSV’s bargaining position but creating no incentive for MSV to cooperate in coordination); and (3) “clarify” that no action taken in this proceeding eliminates any ITU coordination obligations that Inmarsat may have with respect to satellite networks at orbital locations that are not the subject of the STAs (a request that has no bearing on the outcome of these proceedings).²

The conditions that MSV advocates demonstrate that MSV does not have a legitimate interference concern with the continuation of these Inmarsat services over I-4. Rather, MSV’s requested conditions are a transparent attempt to gain leverage in international spectrum negotiations that should be rejected. Allowing the transition of existing Inmarsat services to I-4 on currently utilized frequencies would not prejudge the outcome of the spectrum dispute between MSV and Inmarsat, nor would it reasonably be expected to constrain Inmarsat’s ability to enter into new coordination agreements with MSV.

Moreover, the Commission has long recognized that the absence of a coordination agreement in the L-Band is no barrier to authorizing the continued provision of competitive MSS services, and that it would be inconsistent with U.S. WTO obligations to use the Commission’s

¹ MSV Comments at 1.

² MSV Comments at 2.

licensing processes to provide MSV with leverage in international coordination negotiations.³ Furthermore, the conditions that MSV seeks are far more onerous than the conditions the Commission imposed on MSV itself last year when authorizing MSV to launch and operate two new L-Band spacecraft (i) in the absence of an L-Band coordination agreement, and (ii) without regard to whether the operations of those spacecraft ever are coordinated. “National treatment” obligations under the WTO mandate that no more burdensome obligations be imposed on Inmarsat (a U.K. licensee) than on MSV (a U.S. licensee).

STA is necessary in order to allow the continued provision of existing Inmarsat services, and MSV has not demonstrated that the proposed STA operations pose any threat of harmful interference whatsoever. Inmarsat therefore respectfully requests that the Commission grant the requested STAs without any of the conditions MSV has proposed, and do so by January 13, 2006, in order to allow the transition of traffic to I-4 to commence on Sunday, January 15, 2006.

II. STA IS NEEDED TO ENSURE CONTINUITY OF SERVICE

STA is needed to ensure the continuity of essential Inmarsat services to U.S. Government and commercial users. The state-of-the-art I-4 will replace the I-3 spacecraft (currently located at 54° W.L.) and thereby facilitate the provision of MSS to smaller, lighter, and less expensive MSS mobile terminals, as well as enable the limited spectrum resource to be

³ See, e.g., *SatCom Systems, Inc., et al.*, 14 FCC Rcd 20798, 20813 ¶ 30 (1999) (“*TMI Market Access Order*”) (“AMSC argues that . . . we should preclude any other L-band system from serving the United States until AMSC has coordinated 20 megahertz of spectrum. . . . Put another way, AMSC requests that we keep foreign carriers out of the U.S. market long enough for AMSC to use its monopoly power over U.S. customers to increase its traffic so significantly that it justifies its increased spectrum assignment.”).

used more efficiently than ever before. I-4 is scheduled to arrive at 53° W.L.⁴ on Friday, January 13, 2006, and the transition of service from I-3 is scheduled to occur on Sunday, January 15, 2006. After Inmarsat has confirmed that I-4 is successfully providing commercial service (*i.e.*, once the spacecraft has operated properly for approximately two weeks), Inmarsat intends to redeploy I-3 to 142° W.L. to replace an I-2 satellite that is running out of fuel and must be decommissioned by the end of March 2006. Inmarsat does not have available other spacecraft to relocate to 142° W.L., or the capacity to serve the needs of its customers at 142° W.L. from another suitable orbital location.

The drift of I-3 to 142° W.L. will take about 50 days, and needs to start by the end of January. Inmarsat estimates that, as of March 31, 2006, the I-2 satellite likely will have just enough propellant remaining to allow it to be raised to the “graveyard” orbit into which it was originally designed to be retired from service. Specifically, Inmarsat estimates that I-2 likely will have enough propellant to allow it to be deorbited at a delta V of 7 meters per second, the equivalent to raising the orbit of the spacecraft 193 km above the geostationary arc.

Inmarsat's plans to free I-3 from service at 54° W.L. and relocate it to 142° W.L. could not be finalized and actually implemented until the in-orbit testing of I-4 at 8° E.L. successfully had been completed. That occurred on December 8, 2005, a month after the November 8, 2005 launch of I-4. The underlying STA applications were filed shortly thereafter.

In order to ensure that Inmarsat would be able to free I-3 from service at 54° W.L. in late January and thereby replace I-2 in time, Inmarsat actually accelerated the rate at which it otherwise would have drifted I-4 from its in-orbit testing location of 8° E.L. to 53° W.L. That drift commenced on December 8, 2005, and will be completed when I-4 reaches 53° W.L. on

⁴ For simplicity, Inmarsat refers to the nominal location of the spacecraft rather than the precise 52.75° W.L. location where it will be operated.

January 13, 2006. Absent its desire to deorbit I-2 in a timely and responsible manner, Inmarsat would not have used the additional fuel consumed to drift I-4 a total of sixty-one degrees in only thirty-six days.

For these reasons, prompt grant of STA will facilitate continuity of service at two different orbital locations.

III. THERE IS NO INTERFERENCE ISSUE

MSV does not provide a technical demonstration that the transition of existing I-3 services to I-4 would adversely affect the interference environment in the L-Band under which MSV and Inmarsat currently operate. To the contrary, MSV concedes that “the applications seek to operate on the same frequencies that Inmarsat is currently using” and that “the applicants propose to operate their services in the same ‘technical envelope’ in which they are operated today”⁵ In this regard, the STA requests specifically confirm that (i) the EIRP spectral density of the proposed carriers on I-4 will be no greater than the EIRP spectral density of the same services provided today over the I-3 satellite at 54° W.L., (ii) the out-of-band emissions from the I-4 carriers will not exceed the limits of §25.202(f) (1), (2) and (3), and (iii) no greater protection from interference into the I-4 spacecraft or the Inmarsat mobile earth terminals, beyond the level of protection that exists today, is sought.

The STA requests also provide a full technical description of the services that will be provided over I-4, including all of the technical information required by Part 25 of the Commission’s Rules. Furthermore, in the context of other applications for authority to utilize I-4, Inmarsat explained that I-4 can and will be operated within the same technical envelope as I-3

⁵ MSV Comments at 4-5.

is currently operated.⁶ MSV conveniently ignores all of these technical showings, in favor of making vague allegations that there are no technical parameters agreed between MSV and Inmarsat, and that Inmarsat might not be able to operate I-4 on a non-harmful interference basis in any event.

A 1992 bilateral coordination between the U.S. and the U.K. established the envelope of technical operating parameters that have enabled the successful co-existence of Inmarsat spacecraft with MSV spacecraft for over a decade, without harmful interference. That is the “technical envelope” within which Inmarsat has operated, and intends to continue to operate, its satellite network, until the entry into a new L-Band coordination agreement with MSV. Thus, MSV’s assertion that such a “technical envelope” does not exist because Inmarsat has not adequately coordinated its satellite network⁷ is belied by the facts.

As Inmarsat has previously explained, MSV’s vague assertions about the aggregate operations of I-4⁸ disregard how the available power on that spacecraft will be spread over the available bandwidth to provide the subject services.⁹ Almost any spacecraft is theoretically capable of being used in a manner that can cause harmful interference to another spacecraft. The key parameters in analyzing the interference potential of a spacecraft are the technical characteristics of the specific services to be provided. Those details are clearly set out in the dozens of pages comprising the Schedule S that is appended to the various STA applications. And paramount among those details is the fact that the EIRP spectral density of the

⁶ See, e.g., Opposition of Inmarsat Ventures Limited, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 at 17-18, 21-22 (filed Dec. 7, 2005); Opposition of Inmarsat Ventures Limited, File Nos. SES-LFS-20051011-01396, SES-AMD-20051118-01602, ITC-214-20051012-00406 at 17-18, 21-22 (filed Dec. 7, 2005).

⁷ MSV Comments at 5.

⁸ MSV Comments at 5.

⁹ See Inmarsat Oppositions, *supra* n.7, at 21-22.

services to be continued on I-4 will be no greater than the EIRP spectral density of those same services as they are provided today on I-3.

Commission precedent, established in a similar context (an application by MSV's predecessor for a modified L-Band satellite license), is clear that neither Inmarsat nor the STA applicants need to prove a negative---there will not be interference---as a condition to obtaining Commission authority in this case.¹⁰ That very same MSV/AMSC decision reaffirms that “the burden of resolving potential interference does not rest solely on one party.”¹¹ Moreover, any interference concerns MSV may raise must be supported by more than unsubstantiated speculation.¹² Because Inmarsat and the STA applicants have committed to providing service over I-4 without causing harmful interference to MSV, and in the absence of an L-Band coordination agreement, it is sufficient that the STAs be granted with a license condition that service over I-4 must be provided on a non-harmful interference basis.¹³

IV. ENTRY INTO A COORDINATION AGREEMENT IS NOT A PREREQUISITE TO PROVIDING SERVICE AT L-BAND

Commission precedent also is clear that the successful negotiation of an international coordination agreement is *not* a prerequisite to commencing, or even continuing,

¹⁰ *AMSC Subsidiary Corporation*, 8 FCC Rcd 4040, ¶ 17 (1993) (dismissing COMSAT's concerns about potential interference from the MSV (AMSC) system into Inmarsat because “[a]pplicants for domestic satellite systems are not required to demonstrate non-interference to other satellite systems . . . as a condition to receiving a license”).

¹¹ *Id.*

¹² *See, e.g., Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems*, 18 FCC Rcd 3857, 3909, ¶ 135 (2003).

¹³ The relevant condition in this type of a case is that “harmful interference” not be caused, *see infra* p. 8 & n.16, rather than “any” interference, as MSV mistakenly suggests, *see* MSV Comments at 2 n.2.

operations in the L-Band.¹⁴ Ever since the Commission opened the U.S. market to L-Band competition, U.S. policy has been clear: Without an agreement assigning each of the five L-Band systems to specific operating frequencies, all L-Band operations in the U.S. must be conducted on a non-harmful interference basis consistent with the ITU Radio Regulations.¹⁵

This very policy was affirmed twice last year, in January and May, when the Commission authorized MSV to operate two next-generation L-Band spacecraft whose operations had not yet been coordinated.¹⁶ In each case, the Commission acknowledged that no coordination agreement was in place,¹⁷ but simply required that MSV operate on a non-harmful interference basis. The Commission explained that MSV is “not entitled to any protection from interference until it has completed coordination” but it may operate its new, uncoordinated satellites on that basis until such time as it successfully completes coordination.¹⁸ The Commission further found that, in the absence of a coordination agreement, all L-Band satellite

¹⁴ See *Comsat Corporation d/b/a Comsat Mobile Communications, et al.*, 16 FCC Rcd 21661 (2001); *Mobile Satellite Ventures Subsidiary LLC*, DA 05-1492, at ¶ 34 (rel. May 23, 2005) (“*MSV 101° Order*”); *Mobile Satellite Ventures Subsidiary LLC*, DA 05-50, at ¶ 23 (rel. Jan. 10, 2005) (“*MSV 63.5° Order*”).

¹⁵ *MSV 101° Order* at ¶¶ 34, 59; *MSV 63.5° Order* at ¶¶ 23, 39. This is the well-established and consistently-applied policy in the L-Band, where the rights of satellite operators are governed by the Mexico City MoU. The conditions that the Commission imposed in the PAS-21 case, involving the FSS C-Band, thus are of no relevance. See Letter from Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, to Joseph A. Godles, SAT-STA-19980902-00057 (Sept. 15, 1998). Moreover, in that case, PanAmSat expressly did not object to having its C-Band FSS authority withheld in the absence of a coordination agreement with another operator.

¹⁶ *MSV 101° Order* at ¶ 34; *MSV 63.5° Order* at ¶ 23.

¹⁷ *Id.*

¹⁸ *MSV 101° Order* at ¶ 25; *MSV 63.5° Order* at ¶ 16.

operators “have continued to coordinate their operations informally and have been operating interference-free.”¹⁹

It is irrelevant that MSV’s next-generation L-Band spacecraft may be years away from launch. Nothing in those two 2005 Commission orders authorizing new L-Band MSV spacecraft presumed that MSV would be able to complete coordination prior to launch, and there is no condition requiring that MSV effectuate coordination prior to the commencement of operation of its two new satellites. It would violate the U.S.’s WTO obligations to grant MSV’s requested relief----to apply a more burdensome set of conditions in authorizing Inmarsat’s next-generation L-Band spacecraft to provide U.S. service, having just licensed MSV’s next generation L-Band spacecraft in the absence of a coordination agreement and subject only to the condition to provide service on a non-harmful interference basis.

Inmarsat also would like to set the record straight about the L-Band coordination efforts that Inmarsat and its licensing administration, the U.K., have made in the past few years. Contrary to what MSV would have the Commission believe,²⁰ Inmarsat has made considerable efforts to coordinate the full scope of I-4 operating parameters that potentially could be employed, and to address its operations at various orbital locations that MSV asserts have not been coordinated. Soon after MSV torpedoed the continuation of the 1999 coordination agreement, Inmarsat urged the Commission to require MSV to reengage in coordination under the Mexico City MOU.²¹ The U.K. has formally requested on multiple occasions that the Commission reinstate the annual meetings of all L-Band operators, made appropriate ITU filings for the various orbital locations used by the Inmarsat fleet, and specifically requested

¹⁹ *MSV 101° Order* at ¶ 34; *MSV 63.5° Order* at ¶ 23.

²⁰ *MSV Comments* at 4-5.

²¹ *See Comments of Inmarsat Ventures plc, IB Docket No. 01-185, at 23 (filed Oct. 22, 2001).*

coordination of the very orbital locations used by Inmarsat about which MSV now complains. Even though the U.S. requested that Inmarsat address such coordination with MSV in an annual operator's meeting under the Mexico City MOU, MSV has not been required to participate in such a meeting, and no such meeting has been held.

Notwithstanding MSV's refusal to continue to participate in the Mexico City MOU process, Inmarsat has repeatedly attempted in good faith to update the technical operating parameters that it agreed with MSV in 1992. Specifically, since 2003, Inmarsat has reached out to MSV on a bilateral basis in well over a dozen meetings and conference calls, to coordinate the full operational potential of I-4, and to address the use of various orbital locations that have been needed for the Inmarsat fleet since the last Mexico City MOU coordination agreement was negotiated over seven years ago.²² Just last year, recognizing the upcoming launch of I-4, Inmarsat attempted to reinvigorate coordination with MSV, but those efforts fell on deaf ears--- MSV informed Inmarsat that it does not want to progress coordination until "other issues" between the companies are resolved by their respective senior executives.

Nothing in the ITU Radio Regulations allows MSV to stymie the continued provision of satellite services by other operators by withholding coordination, and by erecting regulatory roadblocks, as MSV seeks to do here and in other Commission proceedings. In the face of MSV's unwillingness to engage constructively on coordination, Inmarsat is entitled to continue to operate its satellite network as it has been doing. Inmarsat has no reason to believe that MSV has suffered harmful interference from Inmarsat's operations. Nor does anything in

²² Inmarsat does not agree with MSV's assertion that Inmarsat's operations at 143.5° E.L. create a greater potential for interference into MSV than the Japanese MTSAT system. *See* MSV Comments at 2, n.4. Inmarsat is operating at that location in a manner that is consistent with the parameters that Inmarsat negotiated with MSV in 1992 to allow service to the Pacific Ocean Region. Moreover, Inmarsat believes that MTSAT system is approximately 6 dB "hotter" than I-3.

the ITU Radio Regulations require that Inmarsat forego the use of orbital locations for which the U.K. has made appropriate ITU filings simply because MSV does not respond to coordination requests. Inmarsat's operations are fully consistent with Inmarsat's rights and obligations under the ITU Radio Regulations, as well as with its licensing authority from the U.K.²³

V. THERE IS NO BASIS TO IMPOSE THE CONDITIONS MSV PROPOSES

There is no basis for MSV's requests that the Commission (i) condition the grant of STA on Inmarsat achieving certain coordination agreements with MSV in the next six months, (ii) exclude from the grant of STA certain L-Band channels that MSV admits Inmarsat currently is using, and (iii) address the state of ITU coordination for Inmarsat spacecraft at orbital locations that are not the subject of the services to be authorized by the requested STAs. Allowing the transition of existing Inmarsat services to I-4 on currently utilized frequencies would not prejudice the outcome of the spectrum dispute between MSV and Inmarsat, nor would it reasonably be expected to constrain Inmarsat's ability to enter into new coordination agreements with MSV.

Moreover, MSV's requested conditions not only are unprecedented, but also are inconsistent with clear Commission policy. The Commission has clearly determined that it may not use its licensing process to impose market-protectionist conditions, or to extract coordination concessions, for MSV's benefit, finding instead that MSV should obtain access to additional spectrum by justifying a need "in the normal course of the international coordination process."²⁴ The Commission recognized just last year that all L-Band operators "have equal rights to all

²³ Contrary to MSV's assertions, *see, e.g.*, MSV Comments at 6, ITU Radio Regulations do not require Inmarsat to coordinate every change in its operations, when the parameters of those modified operations are encompassed by the technical parameters that Inmarsat has already coordinated. *See* ITU Radio Regulations, Appendix 5 (Rev. WRC-03), AP5-2, 3 at ¶ 6 (b), (c).

²⁴ *TMI Market Access Order*, 14 FCC Rcd. at 20813 ¶ 30.

channels in the band” and that MSV does not have exclusive rights to any part of the L-Band, as MSV seeks to establish here.²⁵ Moreover, ever since the expiration of the 1999 coordination agreement, the Commission has authorized L-Band service providers to operate in *all parts of the L-Band*, as long as they do so on a non-harmful interference basis.²⁶

The Commission has recognized that it was MSV who made the strategic decision not to renew or extend the last L-Band coordination agreement that expired in December 1999, because MSV’s predecessor (AMSC) decided that doing so might help it in international spectrum negotiations.²⁷ Having unilaterally ensured that the last coordination agreement did not continue, MSV is in no position to complain about the absence of such an agreement, or to request that Inmarsat be foreclosed from serving the U.S. unless a new coordination agreement that satisfies MSV is entered into within the next six months.

Finally, addressing the disputed spectrum issue by precluding Inmarsat from using that spectrum on I-4 would prejudice the outcome of an international spectrum dispute that is properly resolved in a different forum.²⁸ The Mexico City MoU provides clear measures to

²⁵ See *Flexibility for Delivery of Communications by MSS Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*, FCC 05-30 at n.91 (rel. Feb. 25, 2005).

²⁶ Different spectrum limitations apply (i) during the existence of a coordination agreement, and (ii) in the absence of a coordination agreement. In the former case, operators are constrained to the frequencies designated for their use under the current operating agreement. In the latter case, operators are free to operate anywhere in the L-Band, as long as they do so on a non-harmful interference basis. See, e.g., *AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154, 1158-1159 (D.C. Cir. 2000).

²⁷ See Brief for Appellee (FCC), *AMSC Subsidiary Corporation v. FCC*, Case No. 99-1513, p. 34-35 (D.C. Cir. May 17, 2000) (Public Copy) (“One is reminded of the man who killed his parents and asked for mercy because he was an orphan. As AMSC acknowledges in its brief . . . *it was AMSC that vetoed the proposed extension of the operating agreement*, despite the absence of any immediate interference problem, believing it was better strategically to force the issue of how to deal with the spectrum shortage.”) (emphasis supplied).

²⁸ Inmarsat does not agree with MSV’s recitation (at various places in MSV’s Comments) of the history of spectrum assignments under the Mexico City MoU, its characterization of the terms

resolve disputes among operators—a specified multilateral dispute resolution process. Consistent with the obligations on the United States under that MoU, any unresolved disputes between the operators should be resolved through that multilateral process, in a manner that involves all of the Administrations, not just the United States.

VI. CONCLUSION

For the foregoing reasons, Inmarsat respectfully requests that the Commission grant the Applications for Special Temporary Authority without further delay, and without any of the conditions proposed by MSV.

Respectfully submitted,

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January 6, 2006

and conditions under which various operators used or use portions of the L-Band, its assertions whether a specific portion of the L-Band was ever “loaned,” its assertions about which Inmarsat satellites are covered by the MoU, or its assertions that Inmarsat somehow is improperly holding on to spectrum that Inmarsat is and has been using.

CERTIFICATE OF SERVICE

I, Evelyn F. Carpenter, hereby certify that on this 6th day of January, 2006, served a true copy of the foregoing Consolidated Response of Inmarsat Ventures Limited by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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