

STEPTOE & JOHNSON <sup>LLP</sup>  
ATTORNEYS AT LAW

Alfred M. Mamlet  
202.429.6205  
amamlet@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202.429.3000  
Fax 202.429.3902  
steptoe.com

February 17, 2006

**BY HAND DELIVERY**

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

**PUBLIC VERSION - CONFIDENTIAL INFORMATION REDACTED**

**Re: REQUEST FOR CONFIDENTIAL TREATMENT  
Stratos Communications, Inc.  
File Nos. SES-STA-20051216-01760; SES-STA-20051216-01761; SES-STA-20051216-  
01762; SES-STA-20051216-01763; SES-STA-20051216-01764; ITC-STA-20060121-00029**

Dear Ms. Dortch:

Stratos Communications, Inc. ("Stratos") hereby submits the enclosed letter ("the Stratos Letter") in response to condition 3 included as part of the special temporary authorizations ("STAs") granted by the International Bureau in the above-referenced files. Stratos requests that the Commission treat Attachment A to the Stratos Letter as confidential and not routinely available for public inspection under 47 C.F.R. §§ 0.457 and 0.459. Stratos is separately filing a confidential version of the Stratos Letter with an unredacted version of Attachment A.

Attachment A to the Stratos Letter contains a list of current Stratos customers (and their contact information) with U.S. billing addresses who purchase Inmarsat services from Stratos. This information qualifies as "commercial or financial information" that "would customarily be guarded from competitors" regardless of whether or not such materials are protected from disclosure by a privilege. *See* 47 C.F.R. § 0.457(d); *see also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("[W]e conclude that financial or commercial information provided to the Government on a voluntary basis is 'confidential' for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

As an initial matter, most businesses do not publicly reveal lists of their customers and their contact information. Doing so would allow competing businesses to quickly and easily target customers with a known need for the relevant product. Further, publicly revealing customer lists and contact information could result in customer resentment towards the releasing company if the release of the information is viewed by the customers as the reason for their receipt of unwanted solicitations. Thus, the customer list information that Stratos is submitting is the type of information that "would not be customarily released to the public" and should be treated as confidential under Section 0.457(d) of the Commission's Rules.

In addition, the customer list that is being submitted by Stratos is commercial information that if disclosed could cause substantial competitive harm to Stratos and is therefore entitled to protection under Section 0.459 of the Commission's Rules. In support of this request, and pursuant to 47 C.F.R. § 0.459(b), Stratos hereby states as follows:

1. Stratos seeks confidential treatment of Attachment A of the enclosed Stratos Letter, which contains a listing of Stratos' current customers (and their associated contact information) with U.S. billing addresses, who are currently using Inmarsat services offered by Stratos.
2. The enclosed confidential information is being submitted as part of the Stratos submission required to be filed with the International Bureau in response to condition 3, included as part of the STAs granted to Stratos on January 18, 2006 in the above-referenced files.
3. The enclosed confidential information contains sensitive commercial information. Specifically, it consists of a list of current U.S. customers (and their contact information) with U.S. billing addresses who are purchasing Inmarsat services from Stratos.
4. The confidential information provided as part of the Report is directly related to a competitive service, *i.e.*, mobile satellite services ("MSS"), for which confidentiality is warranted. Stratos directly competes with other distributors of Inmarsat's services in the U.S. and other MSS providers. *See, e.g., In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Market Conditions With Respect to Commercial Mobile Services*, FCC 05-173, ¶ 35 (rel. Sep. 30, 2005).
5. The confidential information contained in the enclosed Report is not of the type released to the public by Stratos. Stratos would suffer competitive harm if the attached confidential customer list were disclosed. Disclosure of the attached customer list would allow Stratos' competitors to target Stratos' customers. *See In the Matter of Mobile Relay Associates*, 14 FCC Rcd 18919, 18924, ¶ 9 (Wireless Bur. 1999) ("Assuming ComSerCo's assertions are true, the MRA materials would represent, at minimum, a list of former, current, and/or prospective customers.

Because these names are valuable in that they could be used to further MRA's business, we conclude that they would be 'commercial' for purposes of our analysis. Similarly, public disclosure of a list of names a business holds out as its customers is likely to cause substantial harm to the competitive position of that business." See also *In the Matter of Review of Part 15 and other Parts of the Commission's Rules*, 19 FCC Rcd 7484, 7492, ¶¶ 21-22 (2004) (indicating that the Commission grants confidential treatment to customer list information).

6. Stratos takes significant measures to ensure that this confidential information is not disclosed to the public, including marking this information as confidential and restricting access to those individuals at Stratos with a need to know.
7. The confidential material for which non-disclosure is sought is not available to the public, and has not previously been publicly disclosed.
8. Stratos requests that the redacted materials be withheld from disclosure for an indefinite period. Disclosure of this information at any time could jeopardize the competitive position of Stratos vis a vis its competitors in the MSS marketplace.
9. Finally, Stratos notes that a denial of its request that the enclosed information be kept confidential would impair the Commission's ability to obtain this type of disclosed information in the future. The ability of a government agency to continually obtain confidential information was behind the legislative purpose in developing exemptions from the Freedom of Information Act. See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) ("Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government's] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation."). The U.S. Court of Appeals for the D.C. Circuit has recognized a "private interest in preserving the confidentiality of information that is provided the Government on a voluntary basis." *Id.* at 879. The Commission should extend a similar recognition to the enclosed materials that Stratos has requested be kept confidential.

Stratos' customer list, in addition to being confidential information shielded from disclosure under Section 0.457 and 0.459 of the Commission's Rules, should also not be disclosed pursuant to any request made under Section 0.461 of the Commission's Rules (or pursuant to protective order sought) by Stratos' competitors or other third parties. The Commission has recognized that a party under Section 0.461 requesting access to information, which the Commission has determined is confidential under Section 0.457 or 0.459, must make a "persuasive showing" to obtain access to this information. See *In the Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 13 FCC Rcd 24816, 24822, ¶ 8 (1998)

(“*Confidential Information Report and Order*”). In determining whether a “persuasive showing” has been made, the Commission balances the interests favoring disclosure and non-disclosure. *See Confidential Information Report and Order* at 24822, ¶ 8. *See also In the Matter of MCI Telecommunications Corp.; On Request for Inspection of Records*, 58 Rad. Reg. 2d (P&F) 187, ¶ 6 (1985). The Commission has further recognized that it discloses information, which qualifies for protection under Section 0.457 or 0.459, under very limited circumstances and when the confidential information is directly related to a matter that is at issue in the proceeding. *See In the Matter of the Western Union Telegraph Co.; On Request for Inspection of Records*, 2 FCC Rcd 4485, 4487, ¶ 14 (1987) (“The Commission has previously disclosed information which qualifies for exemption 4 protection in certain limited circumstances where a party has placed its financial condition at issue in a Commission proceeding or where the Commission has identified a compelling public interest in disclosure.”). *See also Confidential Information Report and Order* at 24822, ¶ 8. In this case, the significant competitive harm which would result from allowing Stratos’ competitors, or any other third party, access to a list of its customers and their contact information would far outweigh any interest related to this proceeding that these competitors would gain from having access to the customer list. The customer list simply has no bearing on arguments by Stratos or its competitors on whether the provision of Stratos’ existing Inmarsat services should be authorized on the new Inmarsat 4F2 satellite.

Stratos also requests that the Commission return the enclosed confidential information if its request for confidentiality is denied. *See* 47 C.F.R. § 0.459(e). Please contact the undersigned if you have questions regarding this submission.

Respectfully submitted,



Alfred M. Mamlet  
Marc A. Paul  
Brendan Kasper

*Counsel for Stratos Communications, Inc.*

Enclosure

cc (by hand delivery):

Roderick Porter (International Bureau)  
Robert Nelson (International Bureau)  
Gardner Foster (International Bureau)  
James Ball (International Bureau)  
Andrea Kelly (International Bureau)  
Cassandra Thomas (International Bureau)  
Howard Griboff (International Bureau)

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Scott Kotler (International Bureau)  
Karl Kensinger (International Bureau)  
Fern Jarmulnek (International Bureau)  
Stephen Duall (International Bureau)  
John Martin (International Bureau)  
JoAnn Ekblad (International Bureau)  
Bruce Jacobs (Counsel for MSV) - By First Class Mail