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Satellite Division
International Bureau

December 28, 2005

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

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DEC 28 2005

Federal Communications Commission
Office of Secretary

Re: Comments of Mobile Satellites Ventures Subsidiary LLC
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)
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)
SES-STA-20051222-01788 (Call Sign E030055)
SES-STA-20051223-01790 (Call Sign E020074)

Dear Ms. Dortch:

Mobile Satellites Ventures Subsidiary LLC ("MSV") hereby files this redacted public version of its Comments on the above-referenced applications for Special Temporary Authority to provide services using an Inmarsat satellite, Inmarsat 4F2 at 52.75°W, for which coordination is not complete.¹ As discussed herein, certain information provided in the Petition should be treated as confidential.²

¹ See Telenor Satellite, Inc., Request for Special Temporary Authority, File No. SES-STA-20051216-01756 et al (December 16, 2005) ("*Telenor STA Request*"); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20051216-01760 et al (December 16, 2005) ("*Stratos STA Request*"); SkyWave Mobile Communications, Corp., Request for Special Temporary Authority, File No. SES-STA-20051222-01788 (December 22, 2005) ("*SkyWave STA Request*"); Satamatics, Inc., Request for Special Temporary Authority, SES-STA-20051223-01790 (December 23, 2005) ("*Satamatics STA Request*").

² 47 C.F.R. § 0.459(b).

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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.³ 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.⁴

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 Comments on the above-referenced applications.

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.⁵

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.

³ 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.

⁴ See *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661, ¶¶ 111 (2001) ("*COMSAT Order*") ("The Mexico City Agreement and related coordination documents, such as minutes of coordination meetings, are considered confidential.").

⁵ *Id.*

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- 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 pursuant to non-disclosure agreements.

- 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.

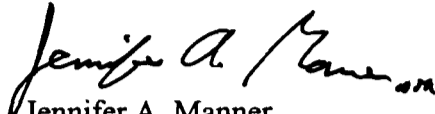
- 47 C.F.R. § 0.459(b)(9) – Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted**

N/A.

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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)
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SkyWave Mobile Communications,) SES-STA-20051222-01788 (Call Sign E030055)
Corp.)
)
Satamatics, Inc.) SES-STA-20051223-01790 (Call Sign E020074)

COMMENTS OF MOBILE SATELLITE VENTURES SUBSIDIARY LLC

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby comments on the above-referenced applications for Special Temporary Authority (“STA”).¹ The applications seek authority to provide services using an Inmarsat satellite, Inmarsat 4F2 at 52.75°W, for which coordination is not complete. MSV does not oppose grant of the applications, if a more detailed justification is provided and the International Bureau (“Bureau”) (i) limits authorized operations to frequencies that are not in dispute; (ii) puts the applicants, Inmarsat, and their customers on notice that the STA for use of the Inmarsat 4F2 satellite at 52.75°W is for 60 days and any

¹ See Telenor Satellite, Inc., Request for Special Temporary Authority, File No. SES-STA-20051216-01756 et al (December 16, 2005) (“*Telenor STA Request*”); Stratos Communications, Inc., Request for Special Temporary Authority, File No. SES-STA-20051216-01760 et al (December 16, 2005) (“*Stratos STA Request*”); SkyWave Mobile Communications, Corp., Request for Special Temporary Authority, File No. SES-STA-20051222-01788 (December 22, 2005) (“*SkyWave STA Request*”); Satamatics, Inc., Request for Special Temporary Authority, SES-STA-20051223-01790 (December 23, 2005) (“*Satamatics STA Request*”).

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additional STAs for its use will not be extended beyond June 30, 2006 without Inmarsat having completed coordination of the satellite with the United States; and (iii) makes clear that these actions in no way eliminate Inmarsat's unfulfilled coordination obligations, including for its planned operations at 142°W.²

With limited exceptions, the only satellites the Commission has authorized to operate in the Mobile Satellite Service ("MSS") L band to provide United States services are those that have been coordinated pursuant to the *Mexico City MoU*.³ In the case of Inmarsat, this includes three Inmarsat-3 satellites, at 15.5°W, 54°W, and 178°E. Inmarsat has not fulfilled its obligations to coordinate other operations with the United States, including for existing services from orbital locations at 98°W, 142°W, and 143.5°E.⁴

In these applications, Stratos Communications, Inc. ("Stratos"), Telenor Satellite, Inc. ("Telenor"), SkyWave Mobile Communications, Corp. ("SkyWave"), and Satamatics, Inc.

² As with other STAs, the Bureau should also make clear that operations pursuant to this STA are strictly on an unprotected, non-interference basis and that the holders of the STAs will be required to cease operating upon a complaint of interference.

³ 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 ("*Mexico City MoU*"). The Commission has authorized the use of Inmarsat-2 satellites, but only for use by fixed land gateway earth stations and, in one case, by receive-only mobile terminals.

⁴ Article 9 of the ITU Radio Regulations ("RR") obligates Inmarsat to coordinate its operations at orbital locations that are not subject to the *Mexico City MOU*.

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Inmarsat is well aware that Japan and the United States bilaterally coordinated Japan's L-Band "MTSAT" satellite. MTSAT is located at 140°E. MTSAT posed lesser interference risks than the proposed Inmarsat-2 or -3 satellites at 143.5°E, yet coordination was deemed necessary to eliminate the interference risks. By continuing to disregard its coordination obligations for at least three satellite locations in view of United States territory, Inmarsat is unilaterally subjecting MSV to interference well in excess of levels that MSV accepted in coordination. This behavior and the subject applications are directly contrary to the Commission's authorization process and RR Article 9 treaty obligations.

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(“Satamatics”) report that Inmarsat has notified them that it must move the Inmarsat-3 satellite at 54°W to 142°W to replace an uncoordinated Inmarsat second-generation satellite at 142°W that “is running out of fuel and will be decommissioned shortly.”⁵ According to the applications, the services being provided include important United States government services. The application, however, provides no details, and one must question how important these services actually are insofar as Inmarsat risks providing these services without the protection and regulatory certainty afforded by coordination and timely requests for authorizations.⁶ No direct information is provided as to how the fuel supply on the satellite is monitored, why the need to decommission the satellite apparently became known only recently, or why more notice was not provided. Indeed, the underlying applications, which were not filed until late November or early December,⁷ do not contain any mention of the need for an expeditious grant because of Inmarsat’s alleged need to move the Inmarsat-3 at 54°W to another location. Moreover, the STA

⁵ See *Telenor STA Request* at 1; see also *Stratos STA Request*, Roe Declaration at ¶ 4; *SkyWave STA Request*, Tourian Declaration at ¶ 4; *Satamatics STA Request*, Hester Declaration at ¶ 4. MSV is not aware of any existing Commission licenses to provide services using the Inmarsat satellite at 142°W, and the two applications here do not seem to propose the provision of service using the Inmarsat-3 satellite at its new orbit location at 142°W.

⁶ Indeed, in its June 2005 Prospectus, Inmarsat predicted that its Inmarsat-2 satellite at 142°W (Inmarsat 2F3) will run out of fuel in March 2006. If the services Inmarsat provides on this satellite are truly as important as Inmarsat claims, then one would expect Inmarsat to have sought and received all necessary approvals for its new satellite configuration well prior to the end of life of the satellite. See *Inmarsat plc Prospectus*, Global Offer of Approximately 164.6 Million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per share, at 44 (attached as Exhibit C).

⁷ See *Stratos Communications, Inc.*, Application, File No. SES-MFS-20051122-01614 et al (filed November 22, 2005); *Telenor Satellite, Inc.*, Application, File No. SES-MFS-20051123-01626 et al (filed November 23, 2005); *Satamatics, Inc.*, Application, File No. SES-MFS-20051202-01665 (filed December 2, 2005); *SkyWave Mobile Communications, Corp.*, Application, File No. SES-MFS-20051207-01709 (filed December 7, 2005). Moreover, it appears that Inmarsat has not informed some of its customers of its planned move, as some current licensees of mobile terminals authorized to operate with Inmarsat-3 at 54°W have not sought authority to add Inmarsat 4F2 as a point of communication, either on a temporary or permanent basis.

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requests do not provide information about potential alternatives to shifting the Inmarsat-3 satellite to 142°W or shifting its traffic to the Inmarsat-4 satellite.

MSV is in the process of trying to coordinate L band operations with Inmarsat. There is a pending dispute regarding Inmarsat's refusal to cease operations on spectrum that MSV and Mobile Satellite Ventures (Canada) Inc. ("MSV Canada") loaned to Inmarsat. MSV and MSV Canada notified Inmarsat over 18 months ago that they needed to begin operations on this spectrum, but Inmarsat has refused to return the spectrum. As MSV has demonstrated in other proceedings, the continued use of these frequencies is contrary to the blanket mobile terminal licenses held by Inmarsat's distributors today.⁸ MSV has also been working to engage in a coordination of Inmarsat's satellites in a manner that will increase efficiency of the spectrum assignments in the L band in order to enable the provision of broadband services. Instead of engaging in such discussions constructively, Inmarsat has continued to hold on to spectrum it uses illegally and is now maneuvering to obtain authority to use its new, uncoordinated satellite in the United States, despite the harmful interference it will cause users of the L band. In effect, Inmarsat is treating MSV's services as though they are provided under a secondary MSS allocation and entitled to no coordination and protection.

The current applications are problematic in terms of their impact on both the L band interference environment and the overall L band coordination effort. As to the immediate interference environment, the applications seek to operate on the same frequencies that Inmarsat is currently using, which include the loaned spectrum that MSV and MSV Canada have notified

⁸ See Mobile Satellite Ventures Subsidiary LLC, Public Copy of Petition to Hold in Abeyance or to Grant with Conditions, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (November 23, 2005) ("*MSV Petition*"), at 17-20 (attached as Exhibit A); Mobile Satellite Ventures Subsidiary LLC, Public Copy of Reply to Oppositions, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (December 19, 2005) ("*MSV Reply*"), at 3-5 (attached as Exhibit B).

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Inmarsat to return. Continued operation on this disputed spectrum blocks MSV's use of that spectrum.⁹ In addition, the applications involve the operation of an Inmarsat satellite whose technical characteristics are different from those of the existing, coordinated Inmarsat satellite, including operation with a different configuration of regional beams.¹⁰ Although the applicants propose to operate their services within the "technical envelope" in which they are operated today, it is not apparent that such operation is possible in light of these differences in technical characteristics. Moreover, while the applicants claim that the characteristics of individual carriers may be the same, even if that is the case (which has not been established), they ignore the issue of aggregate operations using the new satellite. The "technical envelope" within which Inmarsat proposes to operate simply does not exist because Inmarsat has not diligently coordinated all its operations in order to establish such an envelope. Inmarsat has not provided sufficient information to determine whether these Inmarsat carriers will in fact operate in such a manner that it will not cause harmful interference to current operations of MSV and MSV Canada.

As for the overall coordination effort, as a matter of spectrum management policy, it is problematic for the Commission to be put in a position where it is effectively forced to authorize the use of a satellite that has not been coordinated. Neither Inmarsat nor the applicants provide any explanation for why so little notice was provided or what alternatives might be available.

No showing is made that the existing Inmarsat satellite at 142°W needs to be decommissioned so

⁹ See *MSV Petition* (Exhibit A), at 4-5.

¹⁰ The 30-day Public Notice period on the pending applications to operate current-generation mobile terminals and fixed gateway earth stations with Inmarsat 4F2 has not yet expired. Thus, interested parties have not yet filed Petitions or Comments with the Commission regarding these applications. MSV has already demonstrated significant interference concerns regarding operation of next-generation Broadband Global Area Network ("BGAN") services over Inmarsat 4F2. See *MSV Petition* (Exhibit A), at 7-14; *MSV Reply* (Exhibit B) at 2-10.

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soon, that Inmarsat could not have foreseen such a need well in advance of these applications, or that there are not other alternatives. Inmarsat's proclivity to proceed without coordination is extraordinary. The 64 kbps service that Inmarsat's distributors offer today has never been coordinated and neither have the two second-generation satellites Inmarsat is currently operating to provide United States service at 98°W and 142°W. Needless to say, Inmarsat has not even sought to coordinate its planned replacement of the Inmarsat-2 satellite at 142°W with the newer, more powerful Inmarsat-3 satellite being moved from 54°W.

MSV urges the Bureau to require the applicants to provide a more detailed explanation for this last-minute request, including information about when they first became aware of Inmarsat's planned move and the alleged need therefore. Inmarsat should be required to provide information about its monitoring of fuel levels and the supposed urgency of decommissioning its existing satellite at 142°W.


In order to minimize any interference to MSV's operations, MSV urges the Bureau to condition any grant on the authorized operations being limited to only those frequencies that are not in dispute. This clarification will remove any confusion about the terms of the existing L band authorizations held by the applicants.

Finally, to minimize the adverse impact on the overall coordination, MSV urges the Bureau to provide a clear deadline of no later than June 30, 2006 for the completion of coordination of the new and relocated Inmarsat satellites and services for which coordination is required with the United States under the ITU Radio Regulations. MSV continues to stand ready to complete this coordination, but it cannot do so until Inmarsat chooses to cooperate. The applicants and their customers should be put on notice that the kind of brinksmanship that has characterized Inmarsat's approach to international frequency coordination, with the

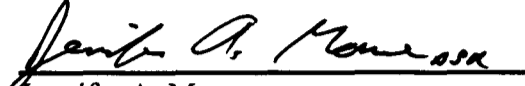
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communications requirements of critical government customers being held hostage, must come to an end.

Respectfully submitted,



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David S. Konczal
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Vice President, Regulatory Affairs
**MOBILE SATELLITE VENTURES
SUBSIDIARY LLC**
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Reston, Virginia 20191
(703) 390-2700

Dated: December 28, 2005

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Exhibit A

Mobile Satellite Ventures Subsidiary LLC, Public Copy of Petition to Hold in Abeyance or to Grant with Conditions, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (November 23, 2005)

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

**Re: Petition of Mobile Satellites Ventures Subsidiary LLC to Hold in Abeyance
or to Grant with Conditions Application of Telenor Satellite, Inc.
File No. SES-LFS-20050930-01352
File No. SES-AMD-20051111-01564
File No. ITC-214-20051005-00395**

Dear Ms. Dortch:

Mobile Satellites Ventures Subsidiary LLC ("MSV") hereby files this redacted public version of a Petition to Hold in Abeyance or to Grant with Conditions the above-referenced applications of Telenor Satellite, Inc. ("Telenor") for Title III and Section 214 authorizations to operate terminals in the United States with an uncoordinated Inmarsat-4 L band satellite.¹ As discussed herein, certain information provided in the Petition should be treated as confidential.²

¹ See Telenor Satellite, Inc., Application for Title III Blanket License, File No. SES-LFS-20050930-01352 (September 30, 2005); Telenor Satellite, Inc., Amendment, File No. SES-AMD-20051111-01564 (November 11, 2005); Telenor Satellite, Inc., Application for Section 214 Authorization, File No. ITC-214-20051005-00395 (August 26, 2005).

² 47 C.F.R. § 0.459(b).

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- 47 C.F.R. § 0.459(b)(1) – Identification of the specific information for which confidential treatment is sought**

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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.

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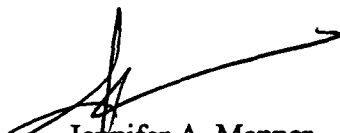
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PETITION TO HOLD IN ABEYANCE OR TO GRANT WITH CONDITIONS

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November 23, 2005

Summary

The International Bureau ("Bureau") should hold in abeyance the applications filed by Telenor to operate terminals in the United States with an uncoordinated Inmarsat satellite until the conclusion of a coordination agreement that results in a more efficient assignment of L band spectrum among the existing operators, including the assignment of contiguous and wider frequency blocks. In evaluating whether the grant of an earth station application to use a non-U.S. licensed satellite will serve the public interest, *DISCO II* requires the Bureau to assess whether the satellite will cause interference to U.S.-licensed systems and whether there is sufficient spectrum available to permit operation of the foreign-licensed system in the United States.

If there is an international coordination agreement in place between the United States and the licensing administration for the foreign satellite, the Commission can generally be assured that permitting the foreign licensed satellite to serve the United States will not raise concerns regarding interference or spectrum availability. But this is not the case in the L band because there is no international coordination agreement pertaining to the operation of Inmarsat 4F2. While the *Mexico City MoU* contemplates the operation of replacement satellites, Inmarsat 4F2 is technically different than Inmarsat-3 which precludes it from being considered a replacement.

In the absence of an international L band coordination agreement covering the Inmarsat 4F2 satellite, there is no basis for the Bureau to conclude that permitting the satellite to serve the United States will not raise concerns regarding interference and spectrum availability. There are three kinds of interference presented by Inmarsat's new satellite that neither Inmarsat nor Telenor has addressed. The first is interference on spectrum that MSV coordinated for its own use and loaned temporarily to Inmarsat, and that Inmarsat now refuses to relinquish. Interference on this loaned spectrum would be immediate but for MSV's continued restraint.

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The second kind of interference results from the fact that Inmarsat 4F2 is technically different than the Inmarsat-3 satellites, and its technical characteristics are in no way contemplated in the 1999 Spectrum Sharing Arrangement among the L band operators. The available evidence, which includes the Commission's own review of the satellite's characteristics and Inmarsat's own characterization of the satellite's susceptibility, indicates that Inmarsat 4F2 cannot operate and provide the proposed new services without causing interference to and receiving interference from other systems in the L band.

The third kind of interference is that threatened by Inmarsat's claim that it is entitled, contrary to its earlier commitments to operate only on spectrum it had coordinated pursuant to the 1999 SSA, to operate wherever it chooses in the L band. Inmarsat has never explained how Inmarsat 4F2 in actual practice could possibly operate on all L band frequencies without resulting in mutual interference among L band operators.

While in some cases the Bureau is reasonably able to conclude that an applicant will be able to complete coordination before operating or will be able to operate on a non-interference basis until coordination is complete, that is not the case here. Given the evidence of interference that Inmarsat 4F2 will cause and receive, it is not a solution for the Bureau to grant applications to operate with Inmarsat 4F2 now, hope that a coordination agreement can be reached in the future, and that in the interim there will not be greater interference among L band systems that embroils the Commission and the operators in interference disputes. As the current impasse in the L band indicates, a *post hoc* approach to coordination disserves the public interest and impedes the full and efficient use of L band spectrum. Accordingly, the Telenor applications should be held in abeyance until an L band coordination agreement is concluded.

If the Bureau grants the applications now despite the lack of a coordination agreement, the Bureau should condition the authorizations on operation strictly on an unprotected, non-interference basis in accordance with the spectrum sharing arrangement negotiated in 1999 among the North American L band operators. The Bureau should make clear that this limited authority does not include permission to use frequencies that were temporarily loaned but subsequently recalled by the lenders under the *Mexico City MOU*. Absent such clarification, the United States is at risk of losing a vital national spectrum resource to Inmarsat's unilateral and illegal action. Moreover, without such a clarification, a precedent will be established that supports attempts by other nations to grab U.S.-coordinated satellite spectrum, thereby undermining the internationally accepted regime for assigning satellite spectrum among sovereign nations.

Lack of international coordination notwithstanding, the Telenor application raises additional issues that warrant further scrutiny, including (i) whether Inmarsat 4F2 qualifies as a replacement satellite; (ii) the failure of Inmarsat 4F2 to comply with the Bureau's interpretation of the Commission's longitudinal station keeping rule; and (iii) the national security and law enforcement concerns presented by operation of terminals in the United States in conjunction with gateway earth stations located overseas.

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

In the matter of)	
)	
Telenor Satellite, Inc.)	File No. SES-LFS-20050930-01352
Application for Title III Blanket License)	File No. SES-AMD-20051111-01564
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	
)	
Telenor Satellite, Inc.)	File No. ITC-214-20051005-00395
Application for Section 214 Authorization)	
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	

PETITION TO HOLD IN ABEYANCE OR TO GRANT WITH CONDITIONS

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this “Petition to Hold in Abeyance or to Grant with Conditions” the above-referenced applications filed by Telenor Communications, Inc. (“Telenor”) for Title III and Section 214 authorizations to operate terminals in the United States with an uncoordinated Inmarsat-4 L band satellite.¹ The International Bureau (“Bureau”) should hold the Telenor applications in abeyance until the conclusion of a coordination agreement that results in a more efficient assignment of L band spectrum among the existing operators, including the assignment of contiguous and wider frequency blocks. If the Bureau grants the applications now despite the lack of a coordination agreement that results in efficient use of the L band, the Bureau should condition the authorizations on operation strictly on an unprotected, non-interference basis in accordance with

¹ As one of the L band Mobile Satellite Service (“MSS”) operators in North America which could be subjected to harmful interference from grant of this application, MSV is a “party in interest” with standing to file this Petition. See 47 U.S.C. § 309(d)(1). Moreover, as a competitor in the MSS market, MSV will suffer economic injury from grant of this application, thereby establishing competitor standing. See *FCC v. Sanders Brothers Radio Station*, 309 U.S. 475, 477 (1940).

the spectrum sharing arrangement negotiated in 1999 among the North American L band operators, which does not include frequencies that were temporarily loaned but subsequently recalled by the lenders.

Background

MSV. MSV is the entity authorized by the Commission in 1989 to construct, launch, and operate a United States Mobile Satellite Service (“MSS”) system in the L band.² MSV’s licensed satellite (AMSC-1) was launched in 1995, and MSV began offering service in 1996. MSV is also the successor to TMI Communications and Company, Limited Partnership (“TMI”) with respect to TMI’s provision of L band MSS in the United States. Today, MSV offers a full range of land, maritime, and aeronautical satellite services, including voice and data, using both its own U.S.-licensed satellite and the Canadian-licensed L band satellite licensed to Mobile Satellite Ventures (Canada) Inc. (“MSV Canada”). In January 2005, the Bureau licensed MSV to launch and operate an L band MSS satellite at 63.5°WL (called “MSV-SA”) to provide MSS in South America.³ In May 2005, the Bureau licensed MSV to launch and operate a replacement L band MSS satellite at 101°WL (called “MSV-1”).⁴

Inmarsat. Inmarsat is a provider of MSS in the L band and is licensed by the United Kingdom. Inmarsat was established in 1976 as a legal monopoly owned largely by foreign government post, telephone, and telegraph (“PTT”) administrations. From its base as a

² *Order and Authorization*, 4 FCC Rcd 6041 (1989); *remanded by Aeronautical Radio, Inc. v. FCC*, 928 F.2d 428 (D.C. Cir. 1991); *Final Decision on Remand*, 7 FCC Rcd 266 (1992); *aff’d*, *Aeronautical Radio, Inc. v. FCC*, 983 F.2d 275 (D.C. Cir. 1993); *see also AMSC Subsidiary Corporation, Memorandum Opinion and Order*, 8 FCC Rcd 4040 (1993).

³ *See Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-50 (January 10, 2005) (“MSV-SA Order”).

⁴ *See Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 05-1492 (May 23, 2005) (“MSV-1 Order”).

monopoly, Inmarsat gradually built a fleet of satellites to provide global service, primarily to large, oceangoing vessels. As the first entrant into the MSS market and as a result of its ties to foreign governments, Inmarsat has developed a dominant share of the MSS market.⁵ Inmarsat currently operates a fleet of nine in-orbit second generation (Inmarsat-2) satellites and third generation (Inmarsat-3) satellites.⁶ Inmarsat is also currently in the process of constructing and launching three fourth-generation (Inmarsat-4) satellites, which support the Broadband Global Area Network ("BGAN") terminals at issue here. These terminals use wider bandwidth carriers than terminals operating with Inmarsat-3 satellites and may require larger guard bands to protect other L band operators. Inmarsat has not discussed with other L band operators the necessary guard bands and their locations in the spectrum to protect other L band operators.

L band coordination process. Spectrum in the L band in North America is shared among five operators: MSV, MSV Canada, Inmarsat, and Mexican and Russian systems. The five Administrations that license these systems reached an agreement in 1996 for a framework for future coordination of the L band spectrum in North America, called the Mexico City Memorandum of Understanding ("*Mexico City MoU*").⁷ Under the *Mexico City MoU*, the L

⁵ See Inmarsat Finance plc, Form F-4 Registration Statement -- Exchange Offer for 7 5/8% Senior Notes due 2012 (May 25, 2004) ("*Inmarsat May 2004 SEC Form F-4*"), at 2 ("In the maritime sector, we believe we are the leading provider of global mobile satellite services, with 2002 revenues in excess of 30 times those of our nearest competitor."); *id.* ("We believe we are also the market leader in the provision of high-speed data services to the maritime and land sectors, with 2002 data revenues of more than 15 times those of our nearest competitor."); Inmarsat Global Ltd., Form F-20 (April 29, 2005), at 28, 33, 34, and 35 (stating that Inmarsat is the "leading provider" of MSS in the land, maritime, and aeronautical sectors) (available at: <http://www.sec.gov/Archives/edgar/data/1291401/000104746905012474/0001047469-05-012474-index.htm>) ("*Inmarsat April 2005 Form F-20*").

⁶ See Comments of Inmarsat Ventures plc, IB Docket No. 01-185 (Oct. 19, 2001), at 3.

⁷ 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 ("*Mexico City MoU*").

band operators are each assigned certain specific frequencies to use on their specific satellites through multi-party operator agreements, called Spectrum Sharing Arrangements (“SSA”). Under the 1999 SSA, which was based on operation of narrowband carriers only, spectrum is divided among the five L band operators in largely non-contiguous slivers.

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Mexico City MoU and the subsequent SSAs have never included operation of Inmarsat-4 satellites at any orbital locations or with wideband carriers.

Under the *Mexico City MoU*, the L band operators are required to ensure that spectrum is

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Since 1999, the L band operators, with the recent exception of Inmarsat, have been operating on a non-interference basis using spectrum assignments listed in the 1999 SSA. For example,

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⁸ Inmarsat’s decision in 2003 to request an additional loan from MSV and MSV Canada is also consistent with such a commitment, as is its statement in its April 2005

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Indeed, even more recently, the Commission was under the impression that “the parties continue to operate under the 1999 assignments pending further negotiations.” *See Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962, n. 144 (February 10, 2003) (“*ATC Order*”).

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securities filing that “the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999.”⁹

Despite these commitments, Inmarsat has continued to use certain L band frequencies that were coordinated for MSV and MSV Canada, temporarily loaned to Inmarsat, and then subsequently recalled.

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MSV and MSV Canada need access to this spectrum to conduct tests of their hybrid systems and to implement their aggressive plans to deploy an interim-generation integrated satellite-terrestrial system.

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Telenor BGAN Application. Telenor is a distributor of Inmarsat’s services in the United States. In November 2001, the Commission authorized various entities, including Telenor’s predecessor COMSAT Mobile, to provide service in the United States using Inmarsat-3 satellites.¹¹ The Commission granted the applications subject to the condition that operations be

⁹ Inmarsat Global Ltd., Form F-20 (April 29, 2005), at 10 (“*Inmarsat April 2005 Form F-20*”) (available at: <http://www.sec.gov/Archives/edgar/data/1291401/000104746905012474/0001047469-05-012474-index.htm>).

¹⁰ Inmarsat has acknowledged its refusal to return the loaned spectrum in a filing with the U.S. Securities and Exchange Commission (“SEC”). See *Inmarsat April 2005 Form F-20* at 48.

¹¹ See *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661 (2001) (“*COMSAT Order*”).

on a non-interference basis, using only those frequencies coordinated for Inmarsat-3 satellites under the 1999 SSA. See *COMSAT Order* ¶ 115(c)-(d).

In its above-referenced applications, Telenor seeks Title III and Section 214 authorizations to operate BGAN terminals in the United States with an uncoordinated Inmarsat-4 satellite that will be located at 52.75°W (called "Inmarsat 4F2").¹² Telenor claims that this satellite is a replacement for an Inmarsat-3 satellite located at 54°W. *Telenor Title III Application*, Information Required by Section 25.137 at 4 and Attachment A at 1-3. To support this claim, Telenor alleges that the Inmarsat 4F2 will serve the same geographic area as the Inmarsat-3 satellite at 54°W and that the BGAN terminals operating with Inmarsat 4F2 will use the same frequencies that the Commission in the *COMSAT Order* authorized METs to use with Inmarsat-3 satellites. *Id.*, Attachment A at 1-2.

Telenor states that Inmarsat 4F2 will operate with $\pm 0.1^\circ$ East-West station-keeping, noting that the Commission's rule requiring Fixed Satellite Service ("FSS") satellites to operate with $\pm 0.05^\circ$ East-West station-keeping does not apply to MSS satellites. *Telenor Title III Application*, Attachment A at 37. Telenor explains that the gateway earth stations to be operated with Inmarsat 4F2 will be located in The Netherlands and Italy. *Id.*, Attachment A at 3. Telenor states that it has entered into a revised agreement with the Department of Justice ("DOJ"), the Federal Bureau of Investigation ("FBI"), and the Department of Homeland Security ("DHS") to address the national security and law enforcement concerns presented by operation of the BGAN terminals in the United States in conjunction with gateway earth stations located overseas, but it

¹² See Telenor Satellite, Inc., Application for Title III Blanket License, File No. SES-LFS-20050930-01352 (September 30, 2005) ("*Telenor Title III Application*"); Telenor Satellite, Inc., Amendment, File No. SES-AMD-20051111-01564 (November 11, 2005); Telenor Satellite, Inc., Application for Section 214 Authorization, File No. ITC-214-20051005-00395 (August 26, 2005).

has not included a copy of this revised agreement in the record of this proceeding. *Id.*,

Additional Response to Item 43 at 6-7.

Discussion

I. THE BUREAU SHOULD HOLD THE TELENOR APPLICATIONS IN ABEYANCE UNTIL THE CONCLUSION OF AN L BAND COORDINATION AGREEMENT

In *DISCO II*, the Commission established a framework for evaluating whether the grant of an earth station application to use a non-U.S. licensed satellite to provide service in the United States will serve the public interest.¹³ Among other things, the Commission will assess whether the foreign-licensed satellite will cause interference to U.S.-licensed systems and whether there is sufficient spectrum available to permit the operation of the foreign-licensed system in the United States. *DISCO II* ¶ 150. The Commission found in *DISCO II* that this exercise of spectrum management authority is consistent with the Chairman's Note to the World Trade Organization ("WTO") Basic Telecommunications Agreement,¹⁴ which states that WTO Members may exercise their domestic spectrum and frequency management policies when considering whether to allow foreign-licensed satellites to service the U.S. market.¹⁵

¹³ See *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*").

¹⁴ Fourth Protocol to the GATS (April 30, 1996), 36 I.L.M. 354 (1997) ("WTO Basic Telecommunications Agreement").

¹⁵ See *Chairman of the World Trade Organization Group on Basic Telecommunications, Chairman's Note, Market Access Limitations on Spectrum Availability*, 36 I.L.M. at 372 ("under the GATS each Member has the right to exercise spectrum/frequency management"); *Space Imaging, LLC, Declaratory Order and Order and Authorization*, DA 05-1940, ¶ 18 (Chief, International Bureau, July 6, 2005) ("In *DISCO II*, the Commission determined that, given the scarcity of orbit and spectrum resources, it would consider spectrum availability as a factor in determining whether to allow a foreign satellite to serve the United States. This is consistent with the Chairman's Note to the WTO Basic Telecom Agreement, which states that WTO Members may exercise their domestic spectrum/frequency management policies when

If there is an international coordination agreement in place between the United States and the licensing administration for the foreign satellite, the Commission can generally be assured that permitting the foreign licensed satellite to serve the United States will not raise concerns regarding interference or spectrum availability. This is not the case in the MSS L band because there is no coordination agreement among the L band operators covering Inmarsat 4F2 at 52.75°W or any other orbital location, or covering its technical parameters. While Telenor and Inmarsat claim that Inmarsat 4F2 is a replacement satellite under the Commission's satellite processing rules, it does not qualify as a replacement satellite under the *Mexico City MoU*.

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(i) it is not replacing another satellite;¹⁶ (ii) it will cause greater interference to other L band operators (*see infra* pages 9-13); and (iii) it will require greater protection from other L band operators (*see infra* pages 11-12). In addition to these and other interference concerns, Telenor states that Inmarsat 4F2 will have inefficient global L band

considering foreign entry. Thus, in DISCO II, we stated that when grant of access would create interference with U.S.-licensed systems, we may impose technical constraints on the foreign system's operations in the United States or, when conditions cannot remedy the interference, deny access.") (citing *DISCO II*).

¹⁶ Inmarsat has admitted that the Inmarsat-3 satellite at 54°W that Inmarsat 4F2 is allegedly "replacing" will in fact continue to operate after the launch of Inmarsat 4F2. *See Inmarsat April 2005 Form F-20* at 29 (noting that Inmarsat-3 satellite will cease commercial operations in 2014); *id.* at 39-40 (explaining that Inmarsat-3 satellites have sufficient fuel remaining to be relocated to other orbital locations). While Telenor in its application indicates that the Inmarsat-3 at 54°W will be retired (*Telenor Title III Application*, Attachment A at 2), Inmarsat has recently repudiated this statement and admitted that the satellite will be retired from service only *at its current orbital location*, but will not be retired from service altogether. *See Inmarsat Ventures Limited, Response*, File Nos. SES-LFS-20050826-01175, SES-AMD-20050922-01313, ITC-214-20050826-00351 (November 10, 2005) ("*Inmarsat Response*"), at 13.

beams, REDACTED¹⁷ Until coordination is complete, Inmarsat 4F2 is simply a rogue satellite that has no internationally recognized rights.

While the Commission has in the past licensed earth stations to operate with L band satellites on a non-interference basis in the absence of a coordination agreement, the spectrum management issues presented now are fundamentally different.¹⁸ Unlike the Inmarsat 4F2 satellite at issue here, those L band satellites had already been coordinated in the past for narrowband carriers. The operators discussed the technical parameters of their respective systems and developed an initial sharing plan by which, even after the annual meetings reached a stalemate, the operators agreed to abide. *See supra* note 8. The Commission and the L band operators could be reasonably assured that narrowband operations could be conducted on a non-interference basis, provided the operators adhered to the frequency assignments detailed in the 1999 SSA.

In this case, however, there is no similar arrangement which defines the frequency assignments for Inmarsat 4F2. It is a vast oversimplification for Telenor to merely state that the Inmarsat-4 satellite at issue here will use the same frequencies that have been authorized for Inmarsat-3. *See Telenor Title III Application*, Attachment A at 1-2. Inmarsat 4F2 is more likely

¹⁷ *Telenor Title III Application*, Attachment A at 12-14, 16;
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¹⁸ *See COMSAT Order* (authorizing Inmarsat satellites to provide service in the United States on a non-interference basis after concluding that operation pursuant to such a condition was possible); *Applications of SATCOM Systems, Inc., TMI Communications and Company, LP, et al., Order and Authorization*, 14 FCC Rcd 20798 (1999), *aff'd sub nom. AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154 (D.C. Cir. 2000) (authorizing Canadian-licensed satellite to provide service in the United States on a non-interference basis after concluding that operation pursuant to such a condition was possible).

both to cause interference to and receive interference from other L band operators relative to the Inmarsat-3 satellites.

The first type of interference is presented by Inmarsat's use of frequencies on its current system that were coordinated for MSV's own use under the 1999 SSA, then loaned to Inmarsat on a temporary basis, and that Inmarsat now refuses to relinquish or to refrain from using on Inmarsat 4F2. MSV and MSV Canada need access to this spectrum to conduct tests of their hybrid systems and to implement their aggressive plans to deploy an interim-generation integrated satellite-terrestrial system. Interference from Inmarsat's operation on this loaned spectrum would occur immediately but for MSV's continued restraint in not using these frequencies so as to protect Inmarsat's customers.

The second type of interference results from the fact that Inmarsat 4F2 is technically different than the Inmarsat-3 satellites, and is more likely both to cause interference to and to suffer interference from other L band systems. BGAN terminals operating with Inmarsat 4F2 will use wideband carriers

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Inmarsat and other L band operators have never coordinated an envelope of frequency assignments, including necessary guard band requirements, within which Inmarsat can operate these wideband carriers while avoiding interference to other L band operators. The inappropriate placement of a broadband, uncoordinated carrier at frequencies too close to a band edge may result in an absolute level of out-of-band emissions that result in harmful interference to other L band operators. Moreover, the aggregate EIRP ("AEIRP") of Inmarsat 4F2 is significantly higher than that of Inmarsat-3, raising the potential for increased interference in the downlink to other L band operators. A BGAN forward link carrier may be radiated from the Inmarsat 4F2 satellite at 10 dB higher power, or more, relative to a coordinated narrowband Inmarsat-3 carrier,

owing to the higher data throughput capability of the BGAN carrier being at least one order of magnitude higher compared to that of the narrowband Inmarsat-3 carrier. As such, absent coordination, out-of-channel and out-of-band emissions of the BGAN carrier are likely to cause harmful interference to other L band systems. The fact is that key technical parameters of Inmarsat 4F2, such as its proposed use of loaned frequencies, wideband carriers, guard bands, out-of-channel and out-of-band emissions, and higher AEIRP, have not been previously coordinated, thus making operation of Inmarsat 4F2 on a non-interference basis relative to other L band systems unlikely.

The potential for interference is not limited to that caused to other L band systems because Inmarsat itself may suffer greater interference upon operation of its new satellite. Inmarsat 4F2 is far more susceptible than the Inmarsat-3 satellites to co-channel interference from operation of current-generation L band satellite terminals. The Commission has noted that uplink co-channel interference resulting from MSV's current-generation satellite terminals will increase from 58.6% $\Delta T/T$ to 794.1% $\Delta T/T$ as Inmarsat transitions from the Inmarsat-3 satellites to the narrow spot beams on the Inmarsat-4 satellites used to support BGAN operations.¹⁹ With respect to adjacent-band interference, Inmarsat has claimed in another proceeding that the

¹⁹ See *ATC Order*, Appendix C2, Table 2.1.1.C. The Commission's characterization of the interference environment is strictly limited to interference from satellite operations. The Commission's decision to permit operation of an Ancillary Terrestrial Component considered separately the potential impact of such terrestrial operations, concluding that terrestrial operations would be permitted if they added no more than an additional 1% $\Delta T/T$ to the interference environment of co-channel operations of other, already-coordinated systems. See *Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and Reconsideration*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005) ("*ATC Reconsideration Order*"), ¶¶ 44-45. For uncoordinated systems such as the Inmarsat-4 satellites, the Commission left it to the operators to negotiate a combined interference limit and, in the absence of an agreement, indicated that it would permit a similar one percent additional rise in the noise floor, above whatever level the parties coordinate for satellite operations. *Id.*

Inmarsat 4F2 satellite has not been designed to accommodate the level of adjacent band interference that can exist from operation of current L band systems based on the system parameters contemplated when Inmarsat-3 was coordinated.²⁰ If this is the case (which MSV has reason to doubt),²¹ then Inmarsat 4F2 is more susceptible to adjacent band interference than the Inmarsat-3 satellites. The result is that, even assuming Inmarsat operates within the confines of the 1999 SSA, it is unlikely to be able to operate on an unprotected, non-interference basis once Inmarsat 4F2 begins operation. Thus, if the Bureau permits Inmarsat-4 satellites to operate in the United States, operation on an unprotected, non-interference basis may not be possible without substantial Commission oversight and enforcement.

The third potential for interference results from Inmarsat's claim that it is permitted to operate on each and every frequency in the L band.²² Inmarsat provides no explanation as to

²⁰ At the time the last L band coordination agreement was reached, Inmarsat was well aware of the potential for the U.S. and Canadian-licensed L-band satellites to support more than 1,000 METs transmitting simultaneously, allowing for voice activation. Given the 16 dBW maximum EIRP of these METs, there can be more than 46 dBW EIRP ($16 + 10 \cdot \log(1000)$) launched toward space from current L-band METs alone. See MSV, Opposition to Inmarsat Ventures Ltd. Petition for Partial Reconsideration and Clarification, IB Docket No. 01-185 (August 4, 2005), at 9-10 and Technical Appendix. In the ATC proceeding, however, Inmarsat has claimed that Inmarsat 4F2 has been designed to accommodate only 37 dBW from "MSV-related" sources of interference. See Inmarsat Ventures Ltd, Petition for Partial Reconsideration and Clarification, IB Docket No. 01-185 (May 13, 2005) ("*Inmarsat Petition*"), at 9.

²¹ See Letter from Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, IB Docket No. 01-185 (November 15, 2005).

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Moreover, Inmarsat's decision in 2003 to request an additional loan from MSV and MSV Canada is also consistent with this commitment, as is its statement in its April 2005 securities filing that "the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999." Inmarsat Global Ltd., Form F-20 (April 29, 2005), at 10 ("*Inmarsat April 2005 Form F-20*") (available at: <http://www.sec.gov/Archives/edgar/data/1291401/000104746905012474/0001047469-05-012474-index.htm>).

how L band operators in actual practice could possibly operate on all L band frequencies and not cause mutual interference. Even assuming that the Commission did authorize Inmarsat-3 to operate on every L band frequency (which is not the case),²³ this would no longer be sound spectrum management policy in the case of Inmarsat 4F2, which is technically different than Inmarsat-3 and is more likely to cause interference to, and to receive interference from, other L band operators.

Given the interference concerns presented by Inmarsat 4F2, requiring Inmarsat to coordinate prior to operation is both good spectrum management policy and consistent with precedent.²⁴ The technical issues presented by the proposed operation of Inmarsat-4 satellites can only be resolved through *a priori* frequency coordination among the L band operators and their licensing administrations, which has not yet occurred. Given the likelihood of operations of Inmarsat 4F2 to cause harmful interference to other L band operators and Inmarsat's refusal to abide by previous coordination agreements by returning loaned spectrum, it is not a solution for the Bureau to grant applications to operate with Inmarsat 4F2 now and hope that a coordination agreement can be reached in the future. As the current impasse in the L band indicates, a *post hoc* approach to coordination disserves the public interest and impedes the full and efficient use of spectrum.²⁵ If the Bureau were to permit Inmarsat 4F2 to provide service in the United States prior to a coordination agreement, the ability of L band operators to provide vital satellite services, including to the public safety community, will be threatened. L band operators will

²³ *COMSAT Order* ¶ 115(c)-(d); *see infra* pages 14-17.

²⁴ *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).

²⁵ As it has done numerous times in the past, MSV invites Inmarsat to participate in discussions to make the most efficient use of the L band spectrum.

soon find themselves embroiled in interference disputes before the Commission, unable to take full advantage of this prime spectrum resource and depriving consumers of the benefits of innovative services that MSV will provide in the near future. Accordingly, unless and until L band coordination discussions are finalized and a coordination agreement is reached, the Bureau should hold the Telenor applications in abeyance.²⁶ Consistent with the Commission's stated strategic goals, MSV stands ready to work with the Commission and other L band operators to use L band spectrum more efficiently and effectively by coordinating the assignment of contiguous and wider frequency blocks among the L band operators.²⁷

II. IF THE BUREAU GRANTS THE TELENOR APPLICATIONS DESPITE THE LACK OF A COORDINATION AGREEMENT, IT SHOULD ATTACH CONDITIONS

In the event the Bureau contemplates grant of the Telenor applications despite the lack of a coordination agreement, the Bureau should condition the grant on operation strictly on an unprotected, non-interference basis in accordance with the spectrum sharing arrangement negotiated in 1999 among the North American L band operators, which does not include frequencies that were temporarily loaned but subsequently recalled by the lenders. Under the

²⁶ A Bureau decision holding the Telenor earth station applications in abeyance is consistent with its recent decisions authorizing MSV to operate next-generation satellites on a non-interference basis. *See MSV-1 Order; MSV-SA Order*. In MSV's case, the Bureau granted licenses for satellites that are years away from launch, not earth station licenses for imminent operation that are presented by Telenor's applications.

²⁷ The Commission has identified the promotion of "efficient and effective" use of spectrum as one of its strategic objectives. *See FCC, Strategic Plan: 2006-2011* (September 30, 2005). The Commission has recognized that assignment of contiguous frequency blocks will increase spectrum efficiency and redound to the benefit of the American public. *See generally Improving Public Safety Communications in the 800 MHz Band, Report and Order*, 19 FCC Rcd 14969 (August 6, 2004); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, Third Report and Order, Third Notice of Proposed Rule Making, and Second Memorandum Opinion and Order*, 18 FCC Rcd 2223, ¶ 68 (2003).

terms of the *COMSAT Order*, earth stations accessing Inmarsat satellites in the United States are permitted to operate only on a non-interference basis *and* only on those frequencies coordinated for the Inmarsat-3 satellites pursuant to the 1999 SSA. *See COMSAT Order* ¶ 115(c)-(d). The Commission granted these applications in 2001, well after expiration of the last SSA at the end of 1999. Thus, the Commission was aware that the SSA had expired. It also was aware that Inmarsat had REDACTED

²⁸ In its decision, the Commission specifically conditioned the licenses to use Inmarsat on use of only those frequencies coordinated for Inmarsat in the “most recent annual L-Band operator-to-operator agreement,” which is a reference to the 1999 SSA. *COMSAT Order* ¶ 115(c). Neither Inmarsat nor its distributors ever sought reconsideration or clarification of this unambiguous condition. Indeed, even more recently in February 2003,²⁹ November 2004,³⁰ and February 2005,³¹ the Commission was under the impression that the parties were continuing to operate under the 1999 assignments pending further negotiations. Moreover, Inmarsat’s decision in 2003 to request an additional loan from MSV and MSV Canada is also consistent with such a

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²⁹ *See ATC Order* ¶ 92 (“The parties to the MoU last revised spectrum assignments in 1999 and, pending further negotiations, continue to operate under those assignments today.”); *id.* n.144 (“Although annual meetings were to have taken place under the terms of the Mexico City MoU, these meetings have not occurred since the parties last agreed to a complex spectrum-sharing arrangement in London in 1999; therefore, the parties continue to operate under the 1999 assignments pending further negotiations.”).

³⁰ *See Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 04-3553 (Int’l Bur. 2004), at n.8 (“The parties to the MOU last revised the spectrum assignments in 1999 and, pending further negotiations, continue to operate with those assignments today.”).

³¹ *See Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and Reconsideration*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005), at ¶ 38 (“These negotiations have not occurred since 1999, and the 1999 coordination agreement remains in effect.”).

condition, as is its statement in its April 2005 securities filing that “the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999.”³²

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The Bureau should make clear if it grants the Telenor applications that METs authorized to operate with any L band satellites in the United States are not permitted to use frequencies that were loaned by one operator to another but subsequently recalled by the lenders.³³

Such a clarification is crucial because Inmarsat’s unilateral re-interpretation of the *COMSAT Order* along with its theory of “prevailing usage” would allow it to confiscate spectrum coordinated by the United States for MSV.³⁴ Absent clarification by the Bureau that Inmarsat is only permitted to use those frequencies it coordinated under the 1999 SSA, the United States is at risk of losing a vital national spectrum resource to Inmarsat’s unilateral and illegal action. Moreover, without such a clarification, a precedent will be established that

³² Inmarsat Global Ltd., Form F-20 (April 29, 2005), at 10 (“*Inmarsat April 2005 Form F-20*”) (available at: <http://www.sec.gov/Archives/edgar/data/1291401/000104746905012474/0001047469-05-012474-index.htm>).

³³ While the present applications pertain only to BGAN METs proposing to operate with Inmarsat 4F2, the Commission has the discretion to issue a declaratory ruling *sua sponte* in this proceeding clarifying that any METs authorized to operate with any L band satellites, including all of the Inmarsat satellites, are not authorized to use loaned but recalled frequencies. See 47 C.F.R. § 1.2.

³⁴ In the prospectus Inmarsat recently filed in connection with its initial public offering (“IPO”), Inmarsat explained that its so-called right to use L band frequencies in North America is based on its theory of “prevailing usage,” which apparently refers to Inmarsat’s view that it can use any frequency it wants provided it does so for a sufficiently long time. See Inmarsat plc Prospectus, Global Offer of Approximately 164.6 Million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per share (“*Inmarsat Prospectus*”), at 53 (attached at Exhibit A).

supports attempts by other nations to grab U.S.-coordinated satellite spectrum, thereby undermining the internationally accepted regime for assigning satellite spectrum among sovereign nations.

In addition, to the extent the Bureau grants the Telenor applications in the absence of a coordination agreement, it should also condition the authorization on a prior showing by Inmarsat as to how it will avoid interference to other L band operators.

III. THE TELENOR APPLICATIONS RAISE ADDITIONAL ISSUES THAT WARRANT FURTHER SCRUTINY

The lack of international frequency coordination for Inmarsat 4F2 notwithstanding, the Telenor applications raise additional issues that warrant further scrutiny. First, while Telenor claims that Inmarsat 4F2 is a replacement for the Inmarsat-3 satellite at 54°W, there is insufficient evidence in the record to support this claim. While Telenor claims that Inmarsat 4F2 will serve the same geographic area as the Inmarsat-3 satellite at 54°W, Inmarsat has never provided the coverage area for its Inmarsat-3 satellite in order to make that comparison.³⁵ Moreover, despite Telenor's claim that the Inmarsat-3 satellite at 54°W will be retired shortly after Inmarsat 4F2 is brought into service,³⁶ Inmarsat has explained to the Securities and Exchange Commission ("SEC") that its Inmarsat-3 fleet will be moved to other locations where

³⁵ While Telenor states that Inmarsat 4F2 will "serve the same geographic regions" as the Inmarsat-3 satellite at 54°W, this leaves unanswered whether Inmarsat 4F2 will cover geographic regions beyond those covered by the Inmarsat-3 satellite at 54°W, which would disqualify Inmarsat 4F2 from being a replacement satellite. *See Telenor Title III Application*, Attachment A at 1; 47 C.F.R. § 25.165(e) ("A replacement satellite is one that is . . . [a]uthorized to be operated at the same orbit location, in the same frequency bands, and with the same coverage area as one of the licensee's existing satellites.").

³⁶ *See Telenor Title III Application*, Attachment A at 2.

they will continue to provide service, perhaps until as late as 2014.³⁷ To the extent the Bureau finds that Inmarsat 4F2 is a replacement satellite under the Commission's rules despite these discrepancies, the Bureau should make clear that this decision does not mean that the Commission as the representative of the United States in international frequency coordination negotiations considers Inmarsat 4F2 to be a replacement satellite under the *Mexico City MoU*. As discussed above (*see supra* pages 8-9), Inmarsat 4F2 cannot be considered a replacement satellite under the *Mexico City MoU*.

Second, while Telenor is correct when it states that the Commission rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station keeping does not apply to MSS satellites, it is incorrect when it implies that this is settled law.³⁸ In acting on MSV's application to operate an MSS satellite with $\pm 0.1^\circ$ East-West station keeping, the Bureau held that MSV was required to justify a waiver of the rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station keeping.³⁹ MSV has sought reconsideration of this decision, asking the Bureau to clarify that the rule requiring FSS satellites to operate with $\pm 0.05^\circ$ East-West station-keeping does not apply to MSS satellites.⁴⁰ This proceeding is pending. To the extent the Bureau authorizes Inmarsat 4F2 for service in the United States with $\pm 0.1^\circ$ East-West station keeping without seeking a waiver, the Bureau must afford similar treatment to other MSS satellites proposing to serve the U.S. market, such as MSV-1. Conversely, if the Bureau on reconsideration of the *MSV-1 Order*

³⁷ See *Inmarsat April 2005 Form F-20* at 29 (noting that Inmarsat-3 satellite will cease commercial operations in 2014); *id.* at 39-40 (explaining that Inmarsat-3 satellites have sufficient fuel remaining to be relocated to other orbital locations).

³⁸ *Telenor Title III Application*, Attachment A at 37; see 47 C.F.R. § 25.210(j).

³⁹ See *MSV-1 Order* ¶ 21.

⁴⁰ See MSV, *Petition for Clarification and Partial Reconsideration*, File Nos. SAT-LOA-19980702-00066 et al (June 22, 2005).

upholds its decision that MSS satellites are required to comply with $\pm 0.05^\circ$ East-West station-keeping, the Telenor application must be dismissed for failing to seek a waiver of this rule.⁴¹

Third, while Telenor states that it has reached a revised agreement with the Executive Branch to address the admitted national security and law enforcement concerns presented by operation of the BGAN terminals, it has not filed this agreement in the record. *See Telenor Title III Application*, Additional Response to Item 43 at 6-7. The Commission has explained that in reviewing applications from foreign entities proposing to provide telecommunications services in the United States, it will assess any national security and law enforcement concerns raised by the application.⁴² While the Commission has stated that it will defer to the expertise of the Executive Branch in identifying these concerns, the application must provide the Bureau with the information it needs to perform its own public interest analysis by assessing whether national security and law enforcement efforts will be compromised by grant of the application.⁴³ Telenor's failure to provide a copy of the revised agreement it has reached with the Executive Branch deprives the Bureau and interested parties of vital information needed to assess whether

⁴¹ See Letter from Thomas S. Tycz, FCC, to John K. Hane, Pegasus Development Corporation, DA 03-3665 (November 19, 2003) (dismissing application for failing to seek waiver of Commission's East-West station-keeping rule).

⁴² *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration*, 12 FCC Rcd 23891, ¶ 61 (November 26, 1997). In reviewing other applications to provide MSS in the United States, the Executive Branch has expressed concern with the national security and law enforcement implications of routing MSS traffic through a gateway earth station located in a foreign country. *See TMI Communications and Company, Limited Partnership*, 14 FCC Rcd 20798, ¶ 55 (1999) ("TMI Order").

⁴³ In other cases, applicants proposing to route MSS traffic through a gateway earth station located in a foreign country have been required to provide the Bureau with a copy of the agreement entered into with the Executive Branch. *See, e.g., TMI Order; COMSAT Order; Motient Services Inc. and TMI Communications and Company, LP, Assignors, and Mobile Satellite Ventures Subsidiary LLC, Assignee, Order and Authorization*, DA 01-2732, 16 FCC Rcd 20469 (Int'l Bur. 2001).

grant of the application will serve the public interest. To the extent the Bureau does not require Telenor to file its revised agreement, the Bureau must afford similar treatment to other MSS operators. Moreover, even assuming that Telenor has reached an agreement with the Executive Branch, this is not sufficient to assure the Bureau that the application does not raise national security and law enforcement concerns. Given the Commission's recent decision directing the Network Reliability and Interoperability Council ("NRIC") to adopt recommendations for E911 for MSS,⁴⁴ the Bureau can only conclude that grant of the application will hamper law enforcement efforts and harm public safety given Inmarsat's stated position that the location of its gateway earth stations in Europe makes E911 compliance infeasible.⁴⁵ The Bureau must make clear that, to the extent the Commission eventually requires MSS operators to provide E911, Inmarsat's unilateral choice to locate gateway earth stations overseas does not excuse it from having to comply with any E911 requirements the Commission may adopt.

⁴⁴ See *Second Report and Order*, CC Docket No. 94-102, IB Docket No. 99-67, FCC 04-201 (August 25, 2004).

⁴⁵ See Reply Comments of Inmarsat Ventures PLC, IB Docket No. 99-67, at 8-11 (March 25, 2002). While the Commission has exempted MSS terminals that cannot be used in motion from E911 compliance, Inmarsat has admitted that at least some of its BGAN terminals must be E911 compliant. See *Inmarsat Ventures Limited, Reply*, File No. SAT-MOD-20031118-00333 (January 5, 2005), at 3 n.9 ("[T]he Commission *did not* exempt all BGAN terminals from E911 requirements.") (emphasis in original).

Conclusion

Based on the foregoing, the Commission should hold in abeyance the Telenor applications until the conclusion of an L band coordination agreement. If the Bureau grants the applications now despite the lack of a coordination agreement, the Bureau should condition the authorizations on operation strictly on an unprotected, non-interference basis in accordance with the spectrum sharing arrangement negotiated in 1999 among the North American L band operators, which does not include frequencies that were temporarily loaned but subsequently recalled by the lenders.

Respectfully submitted,



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Jennifer A. Manner
Vice President, Regulatory Affairs
**MOBILE SATELLITE VENTURES
SUBSIDIARY LLC**
10802 Parkridge Boulevard
Reston, Virginia 20191
(703) 390-2700

Dated: November 23, 2005

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Exhibit A

Excerpt from: Inmarsat plc Prospectus, Global Offer of Approximately 164.6 Million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per share.



Inmarsat plc Prospectus

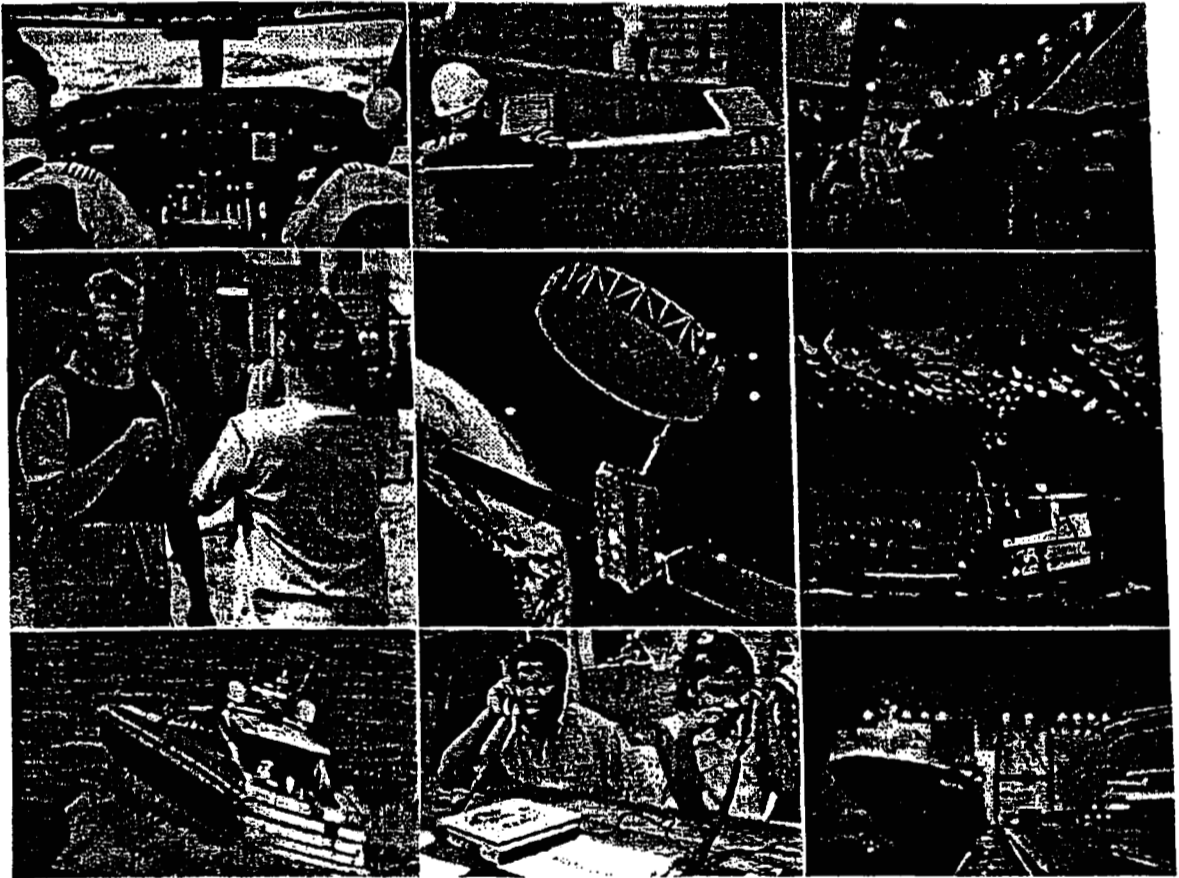
Joint Bookrunners

JPMorgan Cazenove
(Joint Sponsors)

Lehman Brothers

Merrill Lynch International

Morgan Stanley
(Joint Sponsors)



A copy of this document, which comprises a prospectus relating to Inmarsat plc (the "Company") as required by the Listing Rules (the "Listing Rules") made under section 74 of the Financial Services and Markets Act 2000 ("FSMA"), has been delivered to the Registrar of Companies in England and Wales for registration as required by section 83 of FSMA.

Application has been made to the UK Listing Authority and to the London Stock Exchange respectively for admission of all of the ordinary shares of €0.0005 each (the "Shares") issued and to be issued in connection with the Global Offer (as defined in "Part 11: Definitions"): (i) to the Official List of the UK Listing Authority (the "Official List"); and (ii) to the London Stock Exchange plc's (the "London Stock Exchange") market for listed securities (together "Admission"). Conditional dealings in the Shares are expected to commence on the London Stock Exchange on 17 June 2005. It is expected that Admission will become effective and that unconditional dealings in the Shares will commence on the London Stock Exchange at 8.00 a.m. (London time) on 22 June 2005.

All dealings before the commencement of unconditional dealings will be on a "when issued" basis and will be of no effect if Admission does not take place. Such dealings will be at the sole risk of the parties concerned.

The Directors (as defined in "Part 11: Definitions") and the Proposed Directors (as defined in "Part 11: Definitions") of Inmarsat plc, whose names appear on page 1 of this document, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors and the Proposed Directors, who have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.

This document does not constitute an offer to sell, or the solicitation of an offer to buy, Shares in any jurisdiction where such offer or solicitation is unlawful. The Shares have not been, and will not be, registered under the US Securities Act of 1933 (the "Securities Act"), and, subject to certain exceptions, may not be offered or sold within the United States. The Shares are being offered and sold outside the United States pursuant to, and in reliance on, Regulation S ("Regulation S") under the Securities Act and within the United States only to qualified institutional buyers ("QIBs") as defined in Rule 144A ("Rule 144A") under the Securities Act in transactions exempt from the registration requirements of the Securities Act. Sellers of the Shares may be relying on the exemption from the provisions of Section 5 of the Securities Act provided by Rule 144A. For a description of these and certain further restrictions on offers, sales and transfers of the Shares and the distribution of this document, see paragraph 15 under "Part 10: Additional Information".

Anyone considering acquiring Shares in the Global Offer should read this document in its entirety and, in particular, "Part 1: Risk Factors".



Inmarsat plc

(incorporated and registered in England and Wales under the Companies Act 1985 with registered no. 4886072)

Global Offer of approximately 164.6 million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per Share

Joint Sponsors

JPMorgan Cazenove

Morgan Stanley

Joint Bookrunners

JPMorgan Cazenove

Lehman Brothers

Merrill Lynch International

Morgan Stanley

Expected ordinary share capital immediately following Admission

<u>Authorised</u>		<u>Issued</u>	
Number	Amount	Number	Amount
1,169,017,709	€584,509	473,572,588	€236,786

Shares of €0.0005 each

Pursuant to the Radio Regulations, national regulators are required to file technical information with the ITU relating to the proposed satellite systems of operators under their jurisdiction. Ground-based transmission facilities operated by us or our distribution partners, called land earth stations, which connect our satellites to terrestrial communications networks, are also subject to the Radio Regulations if the land earth station coordination area crosses an international border.

All necessary filings for our in-orbit satellites have been made on our behalf by the UK Radiocommunications Agency (which, from 29 December 2003, was incorporated into and replaced by the UK Office of Communications, known as Ofcom). Once filings have been made with the ITU, a frequency co-ordination process follows to ensure that each operator's services do not cause unacceptable interference to the services of other operators. The negotiations are conducted by the national administrations with the assistance of satellite operators. The timetable and procedures for co-ordination are also governed by the Radio Regulations. We have co-ordinated frequencies in the mobile satellite services spectrum at L-band (1.5 and 1.6 GHz) for communication between our satellites and end-user terminals, as well as frequencies in the C-band (4 and 6 GHz) for communications between land earth stations and our satellites. We also have co-ordinated frequencies in the C-band for our tracking, telemetry and command signals to and from our satellites.

Frequency in the L-band is allocated on an annual basis in a regional multilateral co-ordination process which takes place annually through two separate and independent regional operator review meetings among satellite operators using frequencies in the L-band. One meeting involves operators whose satellites cover North America (known as Region 2), while the other involves operators whose satellites cover Europe (known as Region 1), Africa, Asia and the Pacific (collectively known as Region 3). Both of these groups co-ordinate our use of frequencies in South America. In each case, satellite operators co-ordinate frequencies and assign spectrum by consensus. It may be possible to agree frequency allocation and co-ordination on a bilateral basis between operators outside this multilateral process, subject to non-interference with third parties.

In the past, we have been able to secure sufficient spectrum through these co-ordination meetings to provide all our services. However, satellite operators at the North American meeting have been unable to agree on new spectrum allocations and spectrum rights in the North America region are therefore now founded on prevailing usage under the over-arching principles established by the ITU. MSV and MSV Canada have challenged our right to use particular frequency ranges in our current North American spectrum, claiming that they are entitled to use those spectrum segments. We have rejected these claims, pointing to our continuous use of these spectrum segments and MSV's failure to use other spectrum available to it. Moreover, we believe the appropriate forum for any spectrum coordination issue is a multilateral meeting of all North American operators. Pending such a meeting, our rights to the current spectrum over North America are founded on the well-established principles of manifest continuous usage and non-interference.

We have agreed spectrum allocations in the Region 1 and Region 3 operators' review meetings (1) with all operators in respect of our existing services and (2) with all operators, except one, in respect of our next-generation BGAN services. We believe these agreements provide sufficient spectrum to support our existing and next-generation services, including BGAN, throughout the period of validity of the allocation agreements. However, the operator who has not agreed to the latter plan has already stated that it will continue to operate according to the previous spectrum allocation plan. If this situation persists, there is potential for interference to both our and that operator's services. Furthermore, it is possible we would need to apply for additional spectrum to support our future services.

Increased competition for spectrum and orbital locations (and/or disputes with parties to regional co-ordination processes) may make it difficult for us to retain rights to use the spectrum and orbital resources we require. We cannot guarantee that we will be able in the future to retain spectrum and orbital rights sufficient to provide our existing or future services. We also cannot determine to what extent regulatory authorities will charge us or our distribution partners for the use of mobile satellite communications service spectrum or how much would need to be paid to acquire or retain such spectrum in the future. To the extent we or our distribution partners are unable to retain the rights to use such spectrum or are required to pay for such use (by spectrum auctions or otherwise), our ability to provide services may either be limited or become more costly, which may harm our business or our results of operations.


Use of Mobile Satellite Communications Service Spectrum to Provide Terrestrial Communications Services

In January 2003, under the ATC Ruling the FCC decided to permit mobile satellite communications service operators to use their assigned mobile satellite communications service frequencies to provide ancillary terrestrial wireless communication services in the United States as part of an integrated service.

Declaration of Jennifer A. Manner

1. I am the Vice President, Regulatory Affairs of Mobile Satellite Ventures Subsidiary LLC.
2. I have read the foregoing Petition to Hold in Abeyance or to Grant with Conditions the applications of Telenor Satellite, Inc. ("Telenor") for Title III and Section 214 authorizations to operate Broadband Global Area Network ("BGAN") terminals in the United States.
3. I have personal knowledge of the facts stated in the Petition to Hold in Abeyance or to Grant with Conditions. The facts set forth in the Petition, other than those of which official notice may be taken, are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.



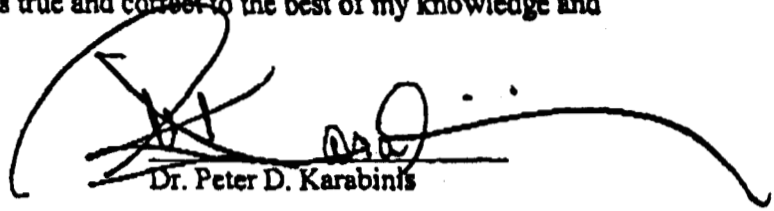
Jennifer A. Manner

Executed on November 23, 2005

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 the foregoing. I am familiar with the Commission's rules, and the information contained in the foregoing is true and correct to the best of my knowledge and belief.



Dr. Peter D. Karabinis

Dated: November 23, 2005

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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 23th day of November 2005, served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

Roderick Porter*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

James Ball*
International Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Karl Kensinger*
International Bureau
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445 12th Street, S.W.
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Robert Nelson*
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Andrea Kelly*
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JoAnn Ekblad*
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Keith H. Fagan
Telenor Satellite, Inc.
1101 Wootton Parkway
10th Floor
Rockville, MD 20852


Sylvia A. Davis

*By e-mail

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Exhibit B

Mobile Satellite Ventures Subsidiary LLC, Public Copy of Reply to Oppositions, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (December 19, 2005)



RECEIPT COPY

Jennifer A. Manner
Vice President,
Regulatory Affairs

PHONE: 703 390-2730
FAX: 703 390-2777
EMAIL: jmanner@msvlp.com

PUBLIC COPY (REDACTED)

December 19, 2005

RECEIVED

DEC 19 2005

Federal Communications Commission
Office of Secretary

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 to Oppositions to MSV's
Petition to Hold in Abeyance or to Grant with Conditions Application of
Telenor Satellite, Inc.
File No. SES-LFS-20050930-01352
File No. SES-AMD-20051111-01564
File No. ITC-214-20051005-00395**

Dear Ms. Dortch:

Mobile Satellites Ventures Subsidiary LLC ("MSV") hereby files this redacted public version of a Reply to the Oppositions of Telenor Satellite, Inc. ("Telenor") and Inmarsat Ventures Limited to MSV's Petition to Hold in Abeyance or to Grant with Conditions the above-referenced applications of Telenor for Title III and Section 214 authorizations to operate terminals in the United States with an uncoordinated Inmarsat-4 L band satellite.¹ As discussed herein, certain information provided in the Petition should be treated as confidential.²

¹ See Telenor Satellite, Inc., Application for Title III Blanket License, File No. SES-LFS-20050930-01352 (September 30, 2005); Telenor Satellite, Inc., Amendment, File No. SES-AMD-20051111-01564 (November 11, 2005); Telenor Satellite, Inc., Application for Section 214 Authorization, File No. ITC-214-20051005-00395 (August 26, 2005).

² 47 C.F.R. § 0.459(b).

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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.³ 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.⁴

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 Oppositions to MSV's Petition to Hold in Abeyance or to Grant with Conditions the above-referenced Telenor applications.

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.⁵

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.

³ 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.

⁴ See *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661, ¶¶ 111 (2001) ("*COMSAT Order*") ("*The Mexico City Agreement and related coordination documents, such as minutes of coordination meetings, are considered confidential.*").

⁵ *Id.*

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- 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 pursuant to non-disclosure agreements.

- 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**

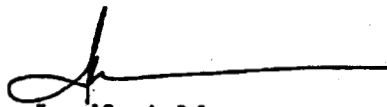
N/A.

Ms. Marlene H. Dortch
December 19, 2005
Page 4

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Please contact the undersigned with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Jennifer A. Manner', with a long horizontal line extending to the right.

Jennifer A. Manner

PUBLIC COPY (REDACTED)

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

In the matter of)	
)	
Telenor Satellite, Inc.)	File No. SES-LFS-20050930-01352
Application for Title III Blanket License)	File No. SES-AMD-20051111-01564
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	
)	
Telenor Satellite, Inc.)	File No. ITC-214-20051005-00395
Application for Section 214 Authorization)	
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	

CONSOLIDATED REPLY TO OPPOSITIONS

Bruce D. Jacobs
David S. Konczal
**PILLSBURY WINTHROP
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December 19, 2005

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Summary

MSV's Petition demonstrated that a grant of this application will result in harmful interference in the L band. The responses to MSV's Petition have done nothing to alleviate this fundamental concern. Indeed, the theme of the responses is "trust us" and "blame MSV" rather than an objective technical showing as to how interference will be avoided with the new, uncoordinated operations. With respect to each of the three specific concerns MSV described in its Petition, the record continues to provide compelling evidence either that harmful interference will definitely occur or cannot reasonably be expected to be avoided in advance of a coordination agreement covering Inmarsat's new satellite and services.

Inmarsat's continued use of spectrum that it agreed to return to MSV and MSV Canada. MSV demonstrated that Inmarsat's current operations on disputed spectrum are blocking MSV's operations *today* and that grant of the instant application, to the extent it authorizes Inmarsat operations on the disputed spectrum, would do the same. The cavalier responses of Inmarsat and the applicant are that any new operations will not change anything, since Inmarsat's existing operations already block MSV. To the contrary, operation of yet another uncoordinated Inmarsat satellite on these disputed frequencies will only compound the existing problem.

Inmarsat's new satellite and new services are technically different from the satellites and services Inmarsat has coordinated previously. MSV's Petition described what is obvious, that Inmarsat's new satellite and new services have different technical characteristics than those Inmarsat has coordinated previously, they have not been coordinated, and their uncoordinated operation likely will result in harmful interference. Inmarsat provides only the most superficial response, one which fails to address all the relevant characteristics of its proposed operations and which disingenuously mentions that Inmarsat "might" limit its operations, without describing or committing to any such limits. Moreover, how and why Inmarsat would use its new satellite and

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provide new services without taking advantage of the new satellite's higher power and narrower spot beams begs credibility and is never explained.

Inmarsat claims the right to operate throughout the entire MSS L band. MSV's Petition questioned how Inmarsat could commit to operate without causing harmful interference when it is simultaneously claiming the right to operate throughout the band without any clear limitation. In effect, Inmarsat is saying that without any "rules of the road" it can operate anywhere it chooses without causing a collision. This is an extraordinarily arrogant assertion for Inmarsat to make. In a congested L band, where there are already disputes that are preventing MSV from using its licensed spectrum in order to avoid interference to Inmarsat customers, Inmarsat's claim is particularly self-serving and outrageous. Inmarsat's response persists in failing to identify any rules of the road it will obey in order to effectively preclude harmful interference. As evidenced by its continued claim to be entitled to use the disputed spectrum, its ongoing use of global beams and older satellites that themselves have not been coordinated, and its plan to use the new satellites not to replace the older satellites but to supplement them, it would be unreasonable to expect that Inmarsat can and will operate its new satellite in a manner that does not lead to harmful interference.

The Commission's most important role is that of spectrum "traffic cop," enforcing reasonable rules of the road, in this case that new L band satellites and services must be coordinated before they are permitted to provide United States service. Such enforcement is entirely within its authority under the *WTO Basic Telecom Agreement* and *DISCO II* principles, and is consistent with its action in at least one other case, involving PanAmSat, in which there was a reasonable concern that authorizing use of an uncoordinated satellite would increase potential harmful interference. MSV cited the PanAmSat case in its Petition, but Inmarsat and

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the applicant chose to ignore it. Enforcing reasonable rules of the road is also consistent with previous Bureau decisions to permit the use of foreign-licensed L band satellites. In those cases, the satellites in question had completed the ITU coordination process, the operators had mutually committed to using specific frequencies and other operating parameters that would prevent harmful interference, and the terms of their earth station licenses limited them to those operating parameters. In contrast, the new Inmarsat satellite and services have never been coordinated, Inmarsat claims the right to operate throughout the band, and the applicant seeks a license that is similarly unlimited. Inmarsat also fails completely to respond to any of the several reasons MSV provided for why Inmarsat's new satellite is not a "replacement" satellite under the *Mexico City MoU* and is thus not entitled to be treated as coordinated.

Inmarsat claims that MSV has been "vetoing" coordination agreements since 1999 and is fabricating interference concerns in an effort to keep Inmarsat from competing in the United States market, and that the solution to MSV's perceived problem is for MSV to agree to renewed multilateral meetings with Canadian, Mexican, and Russian operators. In fact, the break down in coordination talks in 1999 was largely the result of Inmarsat's failure

REDACTED, in particular MSV's need for sufficient spectrum to serve several large wholesale customers, and reduce its use of spectrum inefficient global beams. It is MSV, not Inmarsat, that has been proactive in trying to advance the coordination process. MSV and MSV Canada are in the process of constructing satellites that will provide more than 280 spot beams over the United States, enabling much higher capacity broadband services to smaller and less expensive user devices than Inmarsat's system can provide. It is Inmarsat that has blocked MSV's efforts to develop its system, presumably because it has only recently invested over \$1.5 billion in three Inmarsat-4 satellites

that have insufficient power to provide service to the kind of small, handheld user devices that can be served by the new satellites being built for MSV and MSV Canada. Moreover, Inmarsat's new satellite is capable of providing no more than a dozen spot beams over the United States from its orbit location over the Atlantic Ocean. Inmarsat thus has every incentive to take an anti-competitive position and continue to impede MSV's ability to gain stable, interference-free access to the spectrum needed for MSV's new system. It is Inmarsat that has breached the trust required for coordination, by refusing to recognize **REDACTED**, adding more satellites with inefficient global beams, causing unnecessary delay to the Commission's approval of ATC, refusing to return the spectrum it borrowed from MSV and MSV Canada, and, more recently, by refusing to negotiate for stable access to spectrum reconfigured into wider and more contiguous blocks consistent with the Commission's goal of promoting efficient use of spectrum.

Judging from its response, Inmarsat's current strategy is to cynically hold public safety hostage to its failure to coordinate its new satellite, similar to the approach Inmarsat has taken regarding its continued use of disputed spectrum. Instead of giving in to these demands, the Bureau should put the responsibility where it belongs--on Inmarsat--to make a sincere and concerted effort to coordinate all of its existing and planned L band satellites and services with those operating and planned by the other North American L band operators. Such an effort, to which MSV is committed, can be completed in a few months and is the only way to produce long-lasting, positive results for public safety and others.

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

In the matter of)	
)	
Telenor Satellite, Inc.)	File No. SES-LFS-20050930-01352
Application for Title III Blanket License)	File No. SES-AMD-20051111-01564
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	
)	
Telenor Satellite, Inc.)	File No. ITC-214-20051005-00395
Application for Section 214 Authorization)	
to Operate Mobile Earth Terminals with)	
Inmarsat 4F2 at 52.75°W)	

CONSOLIDATED REPLY TO OPPOSITIONS

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this Consolidated Reply to the Oppositions filed by Telenor Satellite, Inc. (“Telenor”) and Inmarsat Ventures Limited (“Inmarsat”) to MSV’s Petition to Hold in Abeyance or to Grant with Conditions the above-referenced applications to operate earth stations with an uncoordinated Inmarsat-4 L band satellite.¹ By holding the Telenor applications in abeyance until the conclusion of a coordination

¹ In the above-referenced applications, Telenor is seeking Title III and Section 214 authorizations to operate Broadband Global Area Network (“BGAN”) terminals in the United States with an uncoordinated Inmarsat-4 satellite located at 52.75°W (called “Inmarsat 4F2”). See Telenor Satellite, Inc., Application for Title III Blanket License, File No. SES-LFS-20050930-01352 (September 30, 2005) (“*Telenor Title III Application*”); Telenor Satellite, Inc., Amendment, File No. SES-AMD-20051111-01564 (November 11, 2005); Telenor Satellite, Inc., Application for Section 214 Authorization, File No. ITC-214-20051005-00395 (August 26, 2005). MSV is not opposed to the Section 214 Application on its own, but only to the extent that it involves the proposed use of the uncoordinated Inmarsat satellite.

In its initial Petition, MSV urged the Bureau, if it did grant the application despite the overwhelming evidence of harmful evidence that will occur, to condition any license on the distributor not using certain disputed frequencies. See *MSV Petition* at 14-17. On further reflection, MSV withdraws this alternative request. In light of the failure of recent efforts by the Bureau and MSV to secure any commitment from Inmarsat to cease operations on the disputed frequencies, MSV is now convinced that it is critical for the Bureau both to deny any authority to use Inmarsat’s new satellite as long as it remains uncoordinated

agreement, the Bureau will be appropriately exercising its spectrum management authority to prevent harmful interference.

Discussion

I. GRANT OF THE APPLICATION WOULD LEAD TO HARMFUL INTERFERENCE

A. Inmarsat and Its Distributor Have Failed to Respond to MSV's Showing of Harmful Interference

As proponents of providing service in the United States with an uncoordinated satellite, the burden falls squarely on Inmarsat and its distributor to demonstrate that Inmarsat can operate its uncoordinated satellite on a non-harmful interference basis. Inmarsat and its distributors have utterly failed to meet this burden. Not only does the Telenor application fail to explain how Inmarsat intends to operate on a non-harmful interference basis, both Inmarsat and Telenor are deafeningly silent in response to the evidence of three separate types of harmful interference that will result both to other L band operators and to Inmarsat from operation of the Inmarsat 4F2 satellite prior to a coordination agreement.²

Interference resulting from Inmarsat's continued use of spectrum that it agreed to return to MSV and MSV Canada. The first type would result from the use of Inmarsat 4F2 to operate on the frequencies Inmarsat has refused to return to MSV and MSV Canada. *MSV Petition* at 10. Inmarsat's current use of these frequencies prevents MSV and MSV Canada from using those frequencies to test and deploy its new, hybrid system. This is a real, concrete example of interference that is already occurring today. The only response Inmarsat can muster is that this

and to deny authority for the use of any Inmarsat satellite on the disputed spectrum, not just the new Inmarsat satellite. MSV intends to make this latter request in a filing to be submitted in the near future.

² See Mobile Satellite Ventures Subsidiary LLC, Petition to Hold in Abeyance or to Grant with Conditions, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (November 23, 2005) ("*MSV Petition*"), at 7-14.

interference is already happening today, so it should not matter if it continues in the future.³ This is no response at all. The fact that there is already interference from Inmarsat's operation of its existing satellites does not mean the Commission should authorize the use of still more Inmarsat satellites.⁴ Moreover, Inmarsat's claim that MSV can avoid interference by continuing to refrain from using the loaned spectrum avoids the issue entirely, and serves only to highlight Inmarsat's disregard for the consequences of its actions. *Inmarsat Opposition* at 9, 19.

Telenor and Inmarsat do not dispute that Inmarsat presently uses L band frequencies that have been coordinated and assigned for use by MSV and MSV Canada nor do they dispute that Inmarsat will use these frequencies on Inmarsat 4F2; rather, they claim that the Commission has condoned such action by authorizing Inmarsat's existing satellites to operate on every L band frequency.⁵ Even if the Commission condoned such operation in the context of requests filed several years ago to use Inmarsat-3 satellites and other foreign-licensed satellites that had completed the coordination process and were in the ITU Master Register, those facts do not apply to the instant application. Moreover, this interpretation of the Commission's order is simply wrong. In the *TMI Order* and *COMSAT Orders*, the Commission authorized earth

³ See *Inmarsat Ventures Limited, Opposition*, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (December 7, 2005) ("*Inmarsat Opposition*"), at 9, 19.

⁴ Given Inmarsat's admission that it is using loaned frequencies on its current-generation satellites, the Bureau should act *sua sponte* to clarify that existing L band earth station licensees are not permitted to use loaned but recalled frequencies. *MSV Petition* at 16 n.33.

⁵ See *Telenor Satellite, Inc., Opposition*, File Nos. SES-LFS-20050930-01352, SES-AMD-20051111-01564, ITC-214-20051005-00395 (December 7, 2005) ("*Telenor Opposition*"), at 6; *Inmarsat Opposition* at 12-24 (citing *Applications of SATCOM Systems, Inc., TMI Communications and Company, LP, et al., Order and Authorization*, 14 FCC Rcd 20798 (1999) ("*TMI Order*"), *aff'd sub nom. AMSC Subsidiary Corp. v. FCC*, 216 F.3d 1154 (D.C. Cir. 2000) ("*AMSC*") and *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization*, 16 FCC Rcd 21661 (2001) ("*COMSAT Order*").

stations to operate with L band satellites subject to two conditions: the Non-Interference Condition⁶ and the Spectrum Limitation Condition.⁷ The same two conditions have been imposed on earth stations authorized to operate with MSV and MSV Canada as well. See Exhibit A. This has the practical effect of limiting each L band operator to using only those L band frequencies it “coordinated for” its satellites in the 1999 Spectrum Sharing Arrangement (“SSA”).⁸

Inmarsat, however, claims that the Spectrum Limitation Condition only applies when there is a coordination agreement in effect that assigns specific frequencies to specific operators. *Inmarsat Opposition* at 15. The plain language of the Spectrum Limitation Condition, however, reveals that it applies even when there is no such coordination agreement in effect. The *Comsat Order* unambiguously restricts Inmarsat to those portions of the L band coordinated for Inmarsat in the “most recent annual L-Band operator-to-operator agreement.” *COMSAT Order* at ¶ 115(c) (emphasis added). If the Commission had intended to require that the agreement be in effect at the time of the order, the use of the “most recent” modifier would have been unnecessary, since,

⁶ *COMSAT Order* ¶ 115(d) (“[i]n the absence of a continuing annual L-band operator-to-operator coordination agreement, operations of METs in the 1525-1559 and 1626.5-1660.5 MHz bands will be on a non-interference basis until a future operator-to-operator agreement is concluded”); *TMI Order* ¶ 64.

⁷ *COMSAT Order* ¶ 115(c) (“[o]perations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the Inmarsat satellite system in the most recent annual L-Band operator-to-operator agreement”); *TMI Order* ¶ 64.

⁸ L band frequencies that have been loaned between L band operators have not been “coordinated for” the borrowing operator. In order to have the right to “loan” frequencies, the lending operator must have “coordinated for” the right to use those frequencies in the first place. Thus, the terms of the *COMSAT Order* and similar decisions licensing L band earth stations only give the lending operator, and not the borrowing operator, the right to use loaned frequencies. The words “coordinated for” as used in the *COMSAT Order* and similar decisions licensing L band earth stations recognize the superior right the lending operator has to use these frequencies and that the lending operator may exercise its right to use the loaned frequencies at some point in the future.

by definition, any effective operator-to-operator agreement would be the “most recent” one. It is also significant that the Commission imposed the Spectrum Limitation Condition in 2001, with the full knowledge that the 1999 SSA – the “most recent” operator-to-operator agreement – had formally expired. In light of this historical context, the interpretation suggested by Inmarsat is illogical, as it would render the Spectrum Limitation Condition a nullity. Inmarsat’s own actions since 1999 demonstrate that it shared the view that the Spectrum Limitation Condition applied even in the absence of a coordination agreement that assigns specific frequencies to specific operators.⁹ Moreover, the Commission has repeatedly confirmed that although the 1999 SSA may have formally expired, it continues to effectively govern the operations of L band MSS providers. *See Exhibit B.*¹⁰ Accordingly, Inmarsat cannot legitimately claim that the Commission has endorsed the interference it is causing today and plans to continue to cause in the future.¹¹

⁹ *MSV Petition* at 15-16 (noting that Inmarsat’s decision in 2003 to request an additional loan from MSV and MSV Canada is consistent with the Spectrum Limitation Condition, as is its statement in its April 2005 securities filing that “the amount of spectrum available to each operator is currently frozen at the levels agreed in 1999” (citing Inmarsat Global Ltd., Form F-20 (April 29, 2005), at 10 (“*Inmarsat April 2005 Form F-20*”) (available at: <http://www.sec.gov/Archives/edgar/data/1291401/000104746905012474/0001047469-05-012474-index.htm>)).

¹⁰ To support its claim that the Spectrum Limitation Condition only applies when there is a coordination agreement in effect that assigns specific frequencies to specific operators, Inmarsat relies entirely on *dicta* from *AMSC v. FCC* in which the D.C. Circuit stated that the Spectrum Limitation Condition “comes into play, however, only where there is a coordination agreement in effect.” *Inmarsat Opposition* at 15 (citing *AMSC v. FCC*, 216 F.3d at 1158). In fact, this statement was made in the Background section of the opinion in which the court was characterizing the facts of the case as presented by AMSC. *See AMSC v. FCC*, 216 F.3d at 1158 (“If no new coordination agreement was reached, *AMSC argued*, then the new METs would be free to operate anywhere in the Upper L-band, potentially interfering with AMSC’s licensed MSS operations.”) (emphasis added).

¹¹ Despite Inmarsat’s claim, the issue of use of loaned frequencies is not a private contractual dispute between Inmarsat and MSV. *Inmarsat Opposition* at 10. Moreover, because Inmarsat 4F2 is not a replacement satellite under the *Mexico City MoU*, the *Mexico City MoU* multilateral

Interference resulting from technically different of Inmarsat's new satellite and services relative to the satellites and services it has coordinated previously. The second type of interference results from the technical differences between Inmarsat 4F2 and BGAN services relative to Inmarsat-3 and the services coordinated for operation on Inmarsat-3. MSV has demonstrated that these differences will result in greater interference both to other L band operators and to Inmarsat. *MSV Petition* at 10-13.¹² With respect to interference caused by Inmarsat 4F2 to other L band operators, MSV in its Petition provided evidence that BGAN terminals operating with Inmarsat 4F2 will use wideband carriers that are not contemplated in the *Mexico City MoU* or the subsequent SSAs. *Id.* at 10. Because the North American L band

dispute resolution process is not applicable to the issue of use of loaned spectrum on Inmarsat 4F2. *Inmarsat Opposition* at 12/ Inmarsat's distributors are currently using frequencies in the United States that they are not authorized to use under the terms of their licenses and which Inmarsat now proposes to use on its next-generation satellite. This is a simple case of the Commission enforcing an existing license condition and ensuring that it is obeyed in the future. Inmarsat attempts to mislead the Bureau by claiming that the spectrum it borrowed from MSV and MSV Canada is part of the "overall balance struck" in the 1999 SSA that cannot be undone without fundamentally altering the entire agreement. *Inmarsat Opposition* at 10. In fact, these frequencies were loaned on a temporary basis to meet Inmarsat's short-term, emergency needs. Indeed, Inmarsat complained in the coordination process

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. Inmarsat knew full well that these loans would be recalled at some point and it is unreasonable for Inmarsat to have expected to use these frequencies for the long term.

¹² Inmarsat asserts that the absence of interference to date is sufficient evidence that there will not be interference if the new application is granted. *Inmarsat Opposition* at 20. Given the technically different nature of Inmarsat 4F2 relative to Inmarsat-3 satellites, however, it is entirely irrelevant whether there have been any claims of interference resulting from the operation of Inmarsat-3 satellites. As discussed in MSV's Petition, there are material technical differences between the Inmarsat-3 and the Inmarsat 4F2 satellites and between the old services Inmarsat provides and the new services it has developed that make operation on a non-harmful interference basis far more problematic. Thus, Radio Regulation No. 9.6 *et seq* requires prior coordination of Inmarsat 4F2 and BGAN. In any event, there already has been actual harmful interference resulting from Inmarsat's continued illegal use of loaned frequencies on Inmarsat-3 satellites, which has the effect of precluding MSV and MSV Canada from using spectrum for which they have coordinated.

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operators have never coordinated an envelope of frequency assignments, including necessary guard band requirements, within which Inmarsat can operate these wideband carriers, interference will result to other L band operators from operation of Inmarsat 4F2 absent a prior coordination agreement covering the satellite. *Id.* Inmarsat and Telenor appear to concede this point by not offering any substantive response.¹³ MSV also explained that the aggregate EIRP of Inmarsat 4F2 is significantly higher than that of Inmarsat-3, raising the potential for increased interference in the downlink to other L band operators. *MSV Petition* at 10-11. Inmarsat's response focuses on individual carriers and avoids addressing the more fundamental concerns MSV raised regarding the overall system's aggregate interference levels. *Inmarsat Opposition* at 21-22. Moreover, the wideband carriers Inmarsat operates today on its existing satellites have never been coordinated, so any commitment to operate within those uncoordinated parameters is no comfort at all.¹⁴ The only defense Inmarsat can muster (without any technical support

¹³ The Telenor application proposes the use of 200 kHz-wide carriers, which are much wider than the carriers that have been coordinated to date among the L band operators. *Telenor Title III Application*, Technical Description at 18 (Table A.10-1) and Form 312, Schedule B. Notably, Inmarsat does not deny that Inmarsat 4F2 will use wideband carriers.

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Inmarsat has not yet undertaken this required coordination. Not surprisingly, MSV has suffered non-co-channel interference from Inmarsat's uncoordinated HSD transmissions due to Inmarsat's failure to provide sufficient guard bands with respect to MSV transmissions. BGAN transmissions have substantially wider bandwidth than HSD transmissions; consequently, they pose substantially higher risks of non-co-channel interference than HSD transmissions. In coordination of these MSS wideband carriers, the challenge is to suitably limit this interference risk while minimizing the size and number of guard bands in order to achieve the highest possible spectrum utilization efficiency. Moreover, the necessary guard bands must be equitably accommodated within the operators' frequency assignments. Establishment of the appropriate risk-efficiency balances and equitable placements of guardbands are not matters that should be decided unilaterally by Inmarsat.

Operation of wideband carriers on current-generation satellites is not the only example of operations Inmarsat has failed to coordinate despite its obligation to do so. According to its

whatsoever) is the weak claim that the design of the Inmarsat 4F2 “allows the satellite to be operated” so as to produce “no greater potential for interference” to MSV than that caused by Inmarsat-3. *Inmarsat Opposition* at 18.¹⁵ In other words, under certain circumstances, Inmarsat could operate the Inmarsat 4F2 pursuant to the same exact technical parameters as Inmarsat-3. Inmarsat does not explain how such operation is possible given the technically different nature of the Inmarsat 4F2 relative to the Inmarsat-3 satellites, or how it could provide BGAN service without using the higher-power beams available on Inmarsat 4F2. And, not surprisingly, Inmarsat does not commit to operating exclusively in this manner (which would preclude it from deploying wideband carriers and, thus, from providing BGAN service as it has been described); it only offers this as an example of how it could operate the satellite in theory, not how it will actually operate the satellite. Inmarsat also ignores that its plan is not to operate Inmarsat 4F2 as a replacement to its existing satellites in the region but as a supplement to them, thus creating an undefined but significant amount of additional interference even if it were possible to operate the new satellite in exactly the same way as its existing fleet.

With respect to interference caused to Inmarsat, MSV provided evidence that Inmarsat may suffer significant interference upon operation of its new satellite. *MSV Petition* at 11-12.

securities filings, Inmarsat also currently operates Inmarsat-2 satellites at 98°W and 142°W, none of which have been coordinated with other North American L band operators. *Inmarsat April 2005 Form F-20* at 39.

¹⁵ Inmarsat also vaguely claims that it “plans” to operate Inmarsat 4F2 “within the technical envelope of the last coordination agreement” and to ensure that “the interference levels MSV receives from Inmarsat 4F2 are no higher than those already agreed for Inmarsat 3.” *Inmarsat Opposition* at 22. Again, Inmarsat does not explain what this means, let alone commit to anything specific, and, in any event, it offers no technical documentation to support its claim. According to the Telenor application, the characteristics of regional beams on an Inmarsat-4 satellite are not identical to those on an Inmarsat-3 satellite, so it is unclear how an Inmarsat-4 satellite might operate in the same technical envelope as an Inmarsat-3 satellite. *Telenor Title III Application*, Technical Description, Section A.3.

Inmarsat has told the Commission numerous times in the ATC rulemaking that the Inmarsat 4F2 satellite is far more susceptible than the Inmarsat-3 satellites to co-channel¹⁶ and adjacent channel interference¹⁷ from the operation of current-generation L band satellite terminals operating with other L band systems. Inmarsat and Telenor are again silent in response to these points. To be sure, Inmarsat's previous statements were made in the course of the ATC proceeding where it was in Inmarsat's best interests to exaggerate its vulnerability to interference so as to preclude MSV from receiving authority for ATC. Now that it is in Inmarsat's best interests to claim that its new satellite can operate on a non-harmful interference basis, Inmarsat not surprisingly tries to hide from its previous statements. But Inmarsat cannot have it both ways. Inmarsat's only defense is the vaguely worded statement that "overall" the sensitivity of Inmarsat 4F2 to interference is "not much different" than it is with Inmarsat-3. *Inmarsat*

¹⁶ Based on evidence provided by Inmarsat, the Commission has explained that uplink co-channel interference resulting from MSV's current-generation satellite terminals will increase from 58.6% $\Delta T/T$ to 794.1% $\Delta T/T$ as Inmarsat transitions from the Inmarsat-3 satellites to the narrow spot beams on the Inmarsat-4 satellites used to support BGAN operations. *See Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962 (February 10, 2003) ("ATC Order"), at Appendix C2, Table 2.1.1.C. The Commission's characterization of the interference environment in this section of the *ATC Order* was strictly limited to interference from satellite operations. The Commission's decision to permit operation of an Ancillary Terrestrial Component considered separately the potential impact of such terrestrial operations, concluding that terrestrial operations would be permitted if they added no more than an additional 1% $\Delta T/T$ to the interference environment of co-channel operations of other, already-coordinated systems. *See Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and Reconsideration*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005) ("ATC Reconsideration Order"), ¶¶ 44-45. For uncoordinated systems such as the Inmarsat-4 satellites, the Commission left it to the operators to negotiate a combined interference limit and, in the absence of an agreement, indicated that it would permit a similar one percent additional rise in the noise floor, above whatever level the parties coordinate for satellite operations. *Id.*

¹⁷ Inmarsat has claimed in another proceeding that the Inmarsat 4F2 satellite has not been designed to accommodate the level of adjacent band interference that can exist from operation of current L band systems based on the system parameters contemplated when Inmarsat-3 was coordinated. *See Inmarsat Ventures Ltd, Petition for Partial Reconsideration and Clarification*, IB Docket No. 01-185 (May 13, 2005) ("*Inmarsat Petition*"), at 9.

Opposition at 22. Not only does this statement directly contradict what Inmarsat told the Commission previously in the ATC proceeding, it should also fail to instill confidence in the Bureau that Inmarsat will not be back to the Commission in the near future complaining that MSV's operations are causing interference to its customers.

Interference resulting from Inmarsat's proposal to operate throughout the entire MSS L band. The third, and perhaps most troubling, type of interference results from Inmarsat's claim to be entitled to use any and all L band frequencies, subject only to an empty commitment to do so on a "non-harmful interference basis." *MSV Petition* at 12-13. Inmarsat and Telenor once again fail to even try to explain how this will be accomplished despite the existing interference in the band, the new technical characteristics of the proposed operations, and the contention among the operators regarding their need for additional spectrum. There is nothing in the Telenor application that contains any of the limits that would typically be negotiated in a coordination process to prevent interference. Inmarsat states in passing that it has never claimed that it will increase the amount of L band spectrum it uses once the Bureau authorizes Inmarsat 4F2, *Inmarsat Opposition* at 20, but such a statement is neither a denial that it will do so nor a commitment not to do so, and it certainly is not sufficiently detailed to provide any basis for concluding that it is meaningful in terms of preventing harmful interference. Again, in light of Inmarsat's past conduct and its refusal to be limited to the spectrum it coordinated in the 1999 SSA, its new statement is at best confusing and at worst disingenuous.

B. Inmarsat and its Distributor Have Not Shown Any Precedent to Support Their Position

Despite Inmarsat's claim to the contrary, Commission precedent does not establish an unequivocal right to operate an uncoordinated satellite in the United States on a non-harmful

interference basis.¹⁸ As the Bureau demonstrated in the *PanAmSat Order*, it will not license an uncoordinated satellite if there is evidence that interference will result.¹⁹ In that case, the Bureau refused to permit the satellite to operate until after a coordination agreement had been reached with affected operators. The same facts are presented here by the proposed operation of the Inmarsat 4F2 satellite to provide BGAN services. In their replies, Inmarsat and Telenor fail to even mention this case, let alone distinguish it.

The facts of the *TMI Order* and the *COMSAT Order*, which Inmarsat cites, are far different than those presented here. See *Inmarsat Opposition* at 19-21, 22-24. In those cases, it was reasonable for the Commission to conclude that operation on a non-harmful interference basis was possible because the satellites at issue had been coordinated,²⁰ the operators had committed to using specific frequencies,²¹ and the terms of their earth station licenses limited them to those frequencies.²² By contrast, in this case, Inmarsat is proposing to operate a satellite and services that are not covered by any coordination agreement, are technically different than

¹⁸ *Inmarsat Opposition* at 13-17.

¹⁹ 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*").

²⁰ While the 1999 SSA may have expired at the time the Commission permitted Inmarsat to provide service in the United States in the *COMSAT Order*, the *Mexico City MoU* was in effect at the time and is still in effect today. Thus, unlike in this case, the Commission in the *COMSAT Order* was asked to allow a satellite already subject to the *Mexico City MoU* to provide service in the United States. Here, there is no coordination agreement that covers Inmarsat 4F2.

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²² *COMSAT Order* ¶ 115(c) ("[o]perations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the Inmarsat satellite system in the most recent annual L-Band operator-to-operator agreement"); *TMI Order* ¶ 64.

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any satellite or services covered by the previous coordination agreement, has never been analyzed by other L band operators, and (according to Inmarsat) will not accept any limitations on the frequencies it will use. Thus, the proposed operation of Inmarsat 4F2 presents a far different question than that presented in the *TMI* and *COMSAT* cases. For this reason, despite Inmarsat's claims to the contrary, it is very relevant that Inmarsat 4F2 is not a replacement satellite under the *Mexico City MoU* because it distinguishes this case from the *TMI Order* and the *COMSAT Order*. *Inmarsat Opposition* at 25. As discussed in MSV's Petition, Inmarsat 4F2 is not a replacement under the *Mexico City MoU* because (i) it is not replacing another satellite; (ii) it will cause greater interference to other L band operators; and (iii) it will require greater protection from other L band operators. *MSV Petition* 8-9. Because Inmarsat 4F2 is not a replacement satellite under the *Mexico City MoU*, it has no rights under that agreement. Inmarsat's vaguely worded claim that the Inmarsat 4F2 will operate within the "umbrella of technical parameters" of Inmarsat-3 is unsupported and, regardless, is irrelevant in light of the fact that Inmarsat is adding the new satellite to its existing constellation, not using it to replace the Inmarsat-3 at 54°W. *Inmarsat Opposition* at 24. As MSV noted in its Petition, Inmarsat has stated that it will continue to use the Inmarsat-3 satellite currently located at 54°W well after Inmarsat 4F2 is in operation, until as late as 2014, which disqualifies that satellite from being treated as a "replacement" under the *Mexico City MoU*. *MSV Petition* at 17-18. In its *Opposition*, Inmarsat does not refute or retract this statement.

The Bureau's decisions to license MSV's next-generation satellites conditioned on operation on a non-harmful interference basis do not serve as precedent for grant of the present earth station application to operate with the launched but uncoordinated Inmarsat 4F2 satellite. *Inmarsat Opposition* at 7-8, 22-24; *Telenor Opposition* at 4-5. As MSV explained in its

Petition,²³ an explanation which neither Inmarsat nor Telenor addresses in their Oppositions, these satellite licensing cases are inapposite here because the satellites are years away from launch²⁴ and there was no claim that the satellites would cause interference.²⁵ An earth station application such as that presented here, however, is fundamentally different because it means that operation of the satellite is imminent. The Bureau cannot avoid the interference concerns presented by the imminent operation of an uncoordinated satellite such as Inmarsat 4F2. Moreover, because the Bureau has not yet had to consider an earth station application to operate with MSV's next-generation satellites, the Bureau will not be violating the national treatment obligations of the United States under the *WTO Basic Telecom Agreement* if it were to hold the BGAN earth station application in abeyance pending the outcome of a coordination agreement covering Inmarsat 4F2. See *Inmarsat Opposition* at 24.²⁶

²³ *MSV Petition* at 14 n.26.

²⁴ The Bureau licenses domestic satellites several years prior to launch so that operators have the certainty needed to develop their systems as well as to establish construction and launch milestones and complete any necessary international frequency coordination.

²⁵ While Inmarsat now claims that operation of MSV's next-generation satellites may present an interference concern that the Bureau did not consider (*Inmarsat Opposition* at 7-8, 22-24), Inmarsat never raised these issues previously. Inmarsat nonetheless weakly claims that the Commission was "well aware" of these interference concerns (*Inmarsat Opposition* at 24), but the fact is that no one objected to these applications on grounds of potential interference. Thus, there were no interference concerns for the Bureau to consider.

²⁶ In general, the Bureau's exercise of its spectrum management authority to deny this application is consistent with the Chairman's Note to the World Trade Organization ("WTO") Basic Telecommunications Agreement, which states that WTO Members may exercise their domestic spectrum and frequency management policies when considering whether to allow foreign-licensed satellites to service the U.S. market. See *MSV Petition* at 7 (citing *Chairman of the World Trade Organization Group on Basic Telecommunications, Chairman's Note, Market Access Limitations on Spectrum Availability*, 36 I.L.M. at 372 ("under the GATS each Member has the right to exercise spectrum/frequency management")).

C. Inmarsat Must Bear Responsibility for Failing to Coordinate Its Satellite in a Timely Manner

Having failed in its legal case to establish that it has a right to operate an uncoordinated satellite, Inmarsat reverts to blaming MSV for its coordination difficulties. *Inmarsat Opposition* at 8-9. This is wrong as to both the problems with the existing coordination and Inmarsat's failure to coordinate its new satellite. As to the breakdown in L band coordination in 1999, the primary culprit was Inmarsat, which refused to abide by the terms of the *Mexico City MoU*

REDACTED ; in this case, spectrum needed by MSV to satisfy the requirements of large wholesale customers that, with sufficient spectrum access, were prepared to invest in the development of new facilities and services.²⁷ To make matters worse, Inmarsat persisted in continuing to use substantial amounts of spectrum for inefficient global beam service and to operate an uncoordinated Inmarsat-2 satellite that had been moved to 98°W, REDACTED 28

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If launch of BGAN service in the United States is delayed due to the interference concerns presented here by MSV, this is the fault of Inmarsat and not MSV.²⁹ Inmarsat has had

²⁷ REDACTED

²⁸ Apart from the *Mexico City MoU*, as the satellite licensing authority for Inmarsat, the administration of the United Kingdom is required to coordinate the new Inmarsat 4F2 satellite network and BGAN services prior to their implementation. See ITU Radio Regulations, No. 9.6 *et seq.* Neither Inmarsat nor Telenor explains why this treaty obligation should be waived for Inmarsat 4F2 and BGAN services. Instead, the record demonstrates that this coordination obligation is essential, especially in this case where Inmarsat is asking to be allowed to unilaterally decide spectrum usage and interference issues that normally are subject to negotiation.

²⁹ Despite the claims of Inmarsat and Telenor, MSV is not raising these interference issues in order to gain leverage in coordination or to prevent Inmarsat from offering its new BGAN

ample opportunity over the past several years while the Inmarsat-4 satellites were being constructed to complete coordination with other L band operators. Indeed, MSV has been more than willing to discuss coordination with Inmarsat and has reached out to Inmarsat on numerous occasions to discuss coordination issues on a bilateral or a trilateral basis. The blame for the failure to make any progress towards coordinating the Inmarsat-4 satellites in North America rests solely with Inmarsat, which continues to make unreasonable demands, such as its refusal to stop its illegal use of loaned spectrum.³⁰ It is Inmarsat – not MSV or the Bureau – that holds the key to coordinating Inmarsat-4 satellites and thus permitting their use in the United States.

Inmarsat's motivation is plain. While Inmarsat has claimed that its BGAN service will provide new and innovative broadband satellite services, the usefulness of this new service to the American public, as well as the ability of the Inmarsat 4F2 satellite to make efficient use of L band spectrum, are both very limited. Despite costing over \$1.5 billion, the three Inmarsat-4 satellites lack the power to provide service to small, handheld terminals.³¹ Moreover, as the Telenor application reveals, the Inmarsat 4F2 satellite puts only 12 spot beams over the United States and coastal waters, at a look angle that is likely to significantly reduce their ability to

service. *Inmarsat Opposition* at 2; *Telenor Opposition* at 2. MSV's only interest is to ensure that L band spectrum can be used in an efficient and equitable manner by all L band operators without having to endure mutual interference.

³⁰ While Inmarsat claims that MSV has not responded to Inmarsat's recent efforts to coordinate (*Inmarsat Opposition* at 9), MSV has tried to initiate coordination discussions with Inmarsat on numerous occasions. Inmarsat's continued illegal use of loaned frequencies has prevented these discussions from progressing.

³¹ Indeed, in its recent failed attempt to obtain an authorization to provide MSS in the United States in the 2 GHz band, Inmarsat proposed a satellite with roughly five times the power of the Inmarsat 4F2 satellite. See Inmarsat Global Limited, Application, File No. SAT-PPL-20050926-00184 (September 26, 2005).

deliver maximum power to these areas.³² As a result of these problems, one expert estimates that by 2010 Inmarsat will have barely 4000 land-transportable broadband terminals of any kind operating in all of North America.³³ In contrast, the satellites MSV and MSV Canada launch will have several times more power than Inmarsat's satellite and put roughly 280 spot beams over the United States and coastal waters, at a look angle that will permit delivery of maximum power.³⁴ As a result, MSV will be able to efficiently provide 20-30 times more service to United States customers, who will be able to use small, handheld terminals, similar in size to terrestrial mobile devices. By depriving its competitor, MSV, of stable access to spectrum and refusing to engage in serious discussions about improving the utility of the L band for broadband services by coordinating wider and more contiguous frequency blocks, Inmarsat apparently hopes to choke investment in MSV's new system. The Commission has identified the promotion of "efficient and effective" use of spectrum as one of its strategic objectives,³⁵ and it has recognized the assignment of contiguous frequency blocks as a means of achieving this efficiency.³⁶ Needless to say, if the Bureau authorizes the use of Inmarsat's new satellite and new services without insisting that they first complete coordination, there are no reasonable prospects that such coordination will ever be successfully completed. The Commission's goals of increasing

³² See *Telenor Title III Application*, Attachment A (Technical Description) at 6 (Figure A.3-1).

³³ See Northern Sky Research, *Next Generation Mobile Satellite Services*, Table 3-15.

³⁴ See Letter from Randy Segal, MSV, to Ms. Marlene H. Dortch, FCC, File No. SAT-PPL-20050926-00184, IB Docket No. 05-220, IB Docket No. 05-221 (December 1, 2005).

³⁵ See *FCC, Strategic Plan: 2006-2011* (September 30, 2005).

³⁶ See generally *Improving Public Safety Communications in the 800 MHz Band, Report and Order*, 19 FCC Rcd 14969 (August 6, 2004); *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, Third Report and Order, Third Notice of Proposed Rule Making, and Second Memorandum Opinion and Order*, 18 FCC Rcd 2223, ¶ 68 (2003).

efficient use of spectrum and promoting broadband services, particularly in rural areas and for the public safety community, will be thwarted. Having said that, however, it is also reasonable to expect that if the parties commit to a good faith effort to complete a comprehensive regional coordination agreement, MSV's view is that it can be completed in a matter of a few months.

II. THE BUREAU SHOULD ADDRESS THE OTHER ISSUES PRESENTED BY THE TELENOR APPLICATIONS

Inmarsat and Telenor are non-responsive on the additional issues raised by MSV that warrant further scrutiny. First, they continue to miss the point and argue that Inmarsat 4F2 is a replacement under the Commission's satellite processing rules, while failing to even address MSV's point that Inmarsat 4F2 cannot properly be considered a replacement satellite under the *Mexico City MoU*.³⁷ Accordingly, the Bureau should make clear that whatever decision it may make regarding whether Inmarsat 4F2 is a replacement satellite under the Commission's rules, it should clarify that such a decision does not mean the satellite is a replacement under the *Mexico City MoU*.

Second, while MSV agrees with Inmarsat and Telenor that the Commission's rule requiring Fixed Satellite Service ("FSS") satellites to operate with $\pm 0.05^\circ$ East-West station keeping does not apply to MSS satellites, MSV's concern here is only that the Bureau apply this rule consistently, which Inmarsat and Telenor ignore. Thus, to the extent the Bureau authorizes Inmarsat 4F2 for service in the United States with $\pm 0.1^\circ$ East-West station keeping without seeking a waiver, the Bureau must afford similar treatment to other MSS satellites proposing to serve the U.S. market, such as MSV-1 and MSV-SA.

³⁷ Under the *Mexico City MoU*, a new satellite is given the right to use the spectrum assigned to the satellite it is replacing **REDACTED**

As discussed above, Telenor and Inmarsat has failed to demonstrate that Inmarsat 4F2 meets this criterion.

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Third, MSS operators in the past have been required to file with the Commission the Implementation Plans negotiated with the Executive Branch. If Telenor is not required to do so, the Bureau must make clear that other MSS operators are not required to do so either.

Finally, Telenor and Inmarsat note that E911 requirements do not currently apply to MSS operators. *See Telenor Opposition at 9; Inmarsat Response at 27.* The Bureau should make clear that Inmarsat's unilateral choice to locate gateway earth stations overseas does not excuse it from having to comply with any E911 requirements the Commission may adopt in the future.

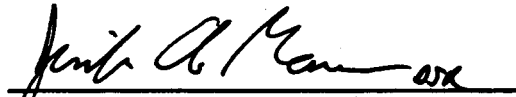
Conclusion

Based on the foregoing, the Bureau should hold in abeyance the Telenor applications until the conclusion of an L band coordination agreement.

Respectfully submitted,



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Dated: December 19, 2005

Exhibit A

Spectrum Limitation Conditions and Non-Interference Conditions
Imposed on L Band MET Licenses

MET Licenses to Access Inmarsat

- *COMSAT Corporation et. al., Memorandum Opinion, Order and Authorization, FCC 01-272, ¶ 115(c)-(d) (2001) (granting application of Stratos, Telenor (f/k/a COMSAT Mobile), Honeywell, and Deere to operate with Inmarsat):*

“115. IT IS FURTHER ORDERED that the applications listed in Appendix C to operate mobile earth terminals to provide domestic and international Mobile Satellite Service via the privatized Inmarsat system ARE GRANTED subject to the following conditions:

* * *

* * *

c. Operations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the Inmarsat satellite system in the most recent annual L-Band operator-to-operator agreement;

d. In the absence of a continuing annual L-band operator-to-operator coordination agreement, operations of METs in the 1525-1559 and 1626.5-1660.5 MHz bands will be on a non-interference basis until a future operator-to-operator agreement is concluded. In this instance, each licensee must notify the other four operators in these frequency bands that it will be operating on a non-interference basis. Each licensee must notify its customers that its operations are on a non-interference basis.”

- *Richtec Incorporated, Order and Authorization, 18 FCC Rcd 3295 (Chief, Satellite Division, International Bureau, March 7, 2003) (granting application to operate D+ terminals with Inmarsat):*

“17. IT IS FURTHER ORDERED that Richtec's mobile earth station operations shall be limited to the portions of the 1525-1544 and 1626.5-1645.5 MHz band coordinated for the satellite being accessed in the most recent annual L-band operator-to-operator agreement. In the absence of a continuing annual L-band operator-to-operator coordination agreement, Richtec's operation in the 1525-1530 MHz, 1530-1544 MHz, 1626.5-1645.5 MHz frequency bands (lower L-bands) will be on a non-interference basis until a future operator-to-operator agreement is concluded. Richtec shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon notification of such interference. Furthermore, Richtec must notify all other operators in these frequency bands that it will be operating on a non-interference basis. Richtec must also notify its customers in the United States that its operations are on a non-interference basis.”

MET Licenses to Access MSV and MSV Canada L Band Satellites

- *Vistar Data Communications, Inc., Order and Authorization*, 17 FCC Rcd 12899 (Deputy Chief, Satellite Division, International Bureau, July 2, 2002) (granting authority to operate half-duplex METs with MSV):

“17. IT IS FURTHER ORDERED that Vistar Data Communications, Inc.’s MET operations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the satellite being accessed in the most recent annual L-band operator-to-operator agreement.

18. IT IS FURTHER ORDERED that in the absence of a continuing annual operator-to-operator coordination agreement, Vistar Data Communications, Inc.’s operation in the 1525-1559 and 1626.5-1660.5 MHz band will be on a non-harmful interference basis. Consequently, in the absence of a coordination agreement, Vistar Data Communications, Inc. shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon written notification of such interference. Furthermore, Vistar Data Communications, Inc. must notify all other operators in these frequency bands that it will be operating on a non-harmful interference basis. Vistar Data Communications, Inc. must also notify its customers in the United States that its operations are on a non-harmful interference basis.”

- *Mobile Satellite Ventures Subsidiary LLC, Memorandum Opinion, Order and Authorization*, 19 FCC Rcd 4672 (Chief, International Bureau, March 12, 2004) (granting authority to operate additional half-duplex METs with MSV and MSV Canada satellites):

“7. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC’s MET operations shall be limited to 2.0 MHz of spectrum in each direction of the 1626.5-1645.5 MHz and 1530-1544 MHz band coordinated for the satellite being accessed in the most recent annual L-band operator-to-operator agreement, and that no additional spectrum will be requested or used.

8. IT IS FURTHER ORDERED that, in the absence of a continuing annual operator-to-operator coordination agreement, Mobile Satellite Ventures Subsidiary LLC’s operation in the 1626.5-1645.5 MHz and 1530-1544 MHz band will be on a non-harmful interference basis. Consequently, in the absence of a coordination agreement, Mobile Satellite Ventures Subsidiary LLC shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon written notification of such interference. Furthermore, Mobile Satellite Ventures Subsidiary LLC must notify all other operators in these frequency bands that it will be operating on a non-harmful interference basis. MSV, Inc. must also notify its customers in the United States that its operations are on a non-harmful interference basis.”

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- *Mobile Satellite Ventures Subsidiary LLC, Memorandum Opinion and Order*, 17 FCC Rcd 12894 (Deputy Chief, Satellite Division, International Bureau, July 2, 2002) (granting authority to operate additional half-duplex METs with MSV):

“9. IT IS FURTHER ORDERED that Mobile Satellite Ventures Subsidiary LLC’s MET operations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordinated for the satellite being accessed in the most recent annual L-band operator-to-operator agreement.

10. IT IS FURTHER ORDERED that, in the absence of a continuing annual operator-to-operator coordination agreement, Mobile Satellite Ventures Subsidiary LLC’s operation in the 1525-1559 and 1626.5-1660.5 MHz band will be on a non-harmful interference basis. Consequently, in the absence of a coordination agreement, Mobile Satellite Ventures Subsidiary LLC shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon written notification of such interference. Furthermore, Mobile Satellite Ventures Subsidiary LLC must notify all other operators in these frequency bands that it will be operating on a non-harmful interference basis. MSV, Inc. must also notify its customers in the United States that its operations are on a non-harmful interference basis.”

- *National Systems & Research Co., Order and Authorization*, 17 FCC Rcd 12011 (Deputy Chief, Satellite Division, International Bureau, June 28, 2002) (granting authority to operate METs with MSV):

“11. IT IS FURTHER ORDERED that National Systems & Research Co.’s MET operations shall be limited to the portions of the 1525-1559 and 1626.5-1660.5 MHz band coordination for the satellite being accessed in the most recent annual L-band operator-to-operator agreement.

12. IT IS FURTHER ORDERED that in the absence of a continuing annual operator-to-operator coordination agreement, National Systems & Research Co.’s operation in the 1525-1530 MHz, 1530-1544 MHz, 1626.5-1645.5 MHz frequency bands (lower L-band) and the 1545-1559 MHz and 1646.5-1660.5 MHz (upper L-band) frequency bands will be on a non-interference basis until a future operator-to-operator agreement is concluded. National Systems & Research Co. shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon written notification of such interference. Furthermore, National Systems & Research Co. must notify all other operators in these frequency bands that it will be operating on a non-interference basis. National Systems & Research Co. must also notify its customers in the United States that its operations are on a non-harmful interference basis.”

- *Infosat Communications, Inc., Order and Authorization*, 17 FCC Rcd 1610 (January 25, 2002) (granting authority to operate METs with MSV Canada satellite):

14. IT IS FURTHER ORDERED that Infosat Communications, Inc. IS AUTHORIZED to operate in the 1525-1530 MHz, 1530-1544 MHz, and 1626.5-1645.5 MHz frequency bands (lower L-band) subject to the following conditions:

* * *

b. Operations shall be limited to the portions of the lower L-band coordinated for TMI satellite network in the most recent annual L-band operator-to-operator agreement;

15. IT IS FURTHER ORDERED that in the absence of a continuing annual L-band operator-to-operator coordination agreement, Infosat's operations of METs in the 1530-1559 and 1631.5-1660 MHz band will be on a non-harmful interference basis until a future operator-to-operator agreement is concluded. Infosat Communications, Inc. shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall cease operations upon notification of such interference. Furthermore, Infosat Communications, Inc. must notify all other operators in these frequency bands that it will be operating on a non-harmful interference basis. Infosat Communications, Inc. must also notify its customers in the United States that its operations are on a non-harmful interference basis."

- *TMI Communications and Company, L.P., Order and Authorization, 15 FCC Rcd 18117* (Chief, Satellite and Radiocommunication Division, September 25, 2000) (granting authority to operate METs with TMI):

"8. Accordingly, IT IS ORDERED that Application File No. SES-LIC-19990318-00435 IS GRANTED and TMI Communications and Company, L.P. IS AUTHORIZED to operate up to 100,000 full-duplex tracking and asset management data services mobile earth terminals through the Canadian licensed MSAT-1 space station in portions of the 1545-1558.5 and 1646.5-1660 MHz band coordinated for the TMI satellite network in the most recent annual L-band operator-to-operator coordination agreement, in accordance with the technical specifications set forth in its application and its Radio Station Authorization, and consistent with the Commission's rules.

9. IT IS FURTHER ORDERED that in the absence of an annual operator-to-operator coordination agreement, TMI's operation in the 1545-1558.5 and 1646.5-1660 MHz band will be on a non-interference basis. Consequently, in the absence of a coordination agreement, TMI shall not cause harmful interference to any other lawfully operating satellite or radio facility and shall immediately cease operations upon notification of such interference. Furthermore, TMI must notify the other four space station operators in these frequency bands that it will be operating on a non-interference basis. TMI must also notify its customers in the United States that TMI's operations are on a non-interference basis."

- *SatCom Systems, Inc., Order and Authorization, 14 FCC Rcd 20798* (November 30, 1999) (granting authority to operate METs with MSV Canada satellite):

"63. Accordingly, IT IS ORDERED that Application File Number 647-DSE-P/L-98; IBFS File Number SES-LIC-19980310-00272E9808159 IS GRANTED and SatCom Systems, Inc. IS AUTHORIZED to operate up to 25,000 mobile earth terminals through the Canadian licensed MSAT-1 space station in the portions of the 1545-1558.5 and 1646.5-1660 MHz band coordinated for the TMI satellite network in the most recent

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annual L-band operator-to-operator coordination agreement, to the extent indicated herein, in accordance with the technical specifications set forth in its application and its Radio Station Authorization, and consistent with the Commission's rules. In the absence of a continuing annual L-band operator-to-operator coordination agreement, SatCom's operation in the 1545-1558.5 and 1546.5-1660 MHz bands will be on a non-interference basis until a future operator-to-operator agreement is concluded. In this instance, SatCom must notify the other four operators in these frequency bands that it will be operating on a non-interference basis. SatCom must also notify its customers that SatCom's operations are on a non-interference basis.

64. IT IS FURTHER ORDERED that Application File Number 730-DSE-P/L-98; IBFS File No. SES-LIC-19980330-00339E980179 IS GRANTED and TMI Communications and Company, L.P. IS AUTHORIZED to operate up to 100,000 mobile earth terminals through the Canadian licensed MSAT-1 space station in the portions of the 1545-1558.5 and 1646.5-1660 MHz band coordinated for the TMI satellite network in the most recent annual L-band operator-to-operator coordination agreement, to the extent indicated herein, in accordance with the technical specifications set forth in its application and its Radio Station Authorization, and consistent with the Commission's rules. In the absence of a continuing annual operator-to-operator coordination agreement, TMI's operation in the 1545-1558.5 and 1646.5-1660 MHz band will be on a non-interference basis until a future operator-to-operator agreement is concluded. In this instance, TMI must notify the other four operators in the these frequency bands that it will be operating on a non-interference basis. TMI must also notify its customers in the United States that TMI's operations are on a non-interference basis."

Exhibit B

Commission Statements Acknowledging Applicability of Spectrum Limitation Condition

- *Flexibility for Delivery of Communications by MSS Providers, Report and Order*, IB Docket No. 01-185, 18 FCC Rcd 1962 (February 10, 2003) (“*ATC Order*”).

“The parties to the MoU last revised spectrum assignments in 1999 and, pending further negotiations, continue to operate under those assignments today.” (¶ 92)

“Although annual meetings were to have taken place under the terms of the Mexico City MoU, these meetings have not occurred since the parties last agreed to a complex spectrum-sharing arrangement in London in 1999; therefore, the parties continue to operate under the 1999 assignments pending further negotiations.” (n. 144)

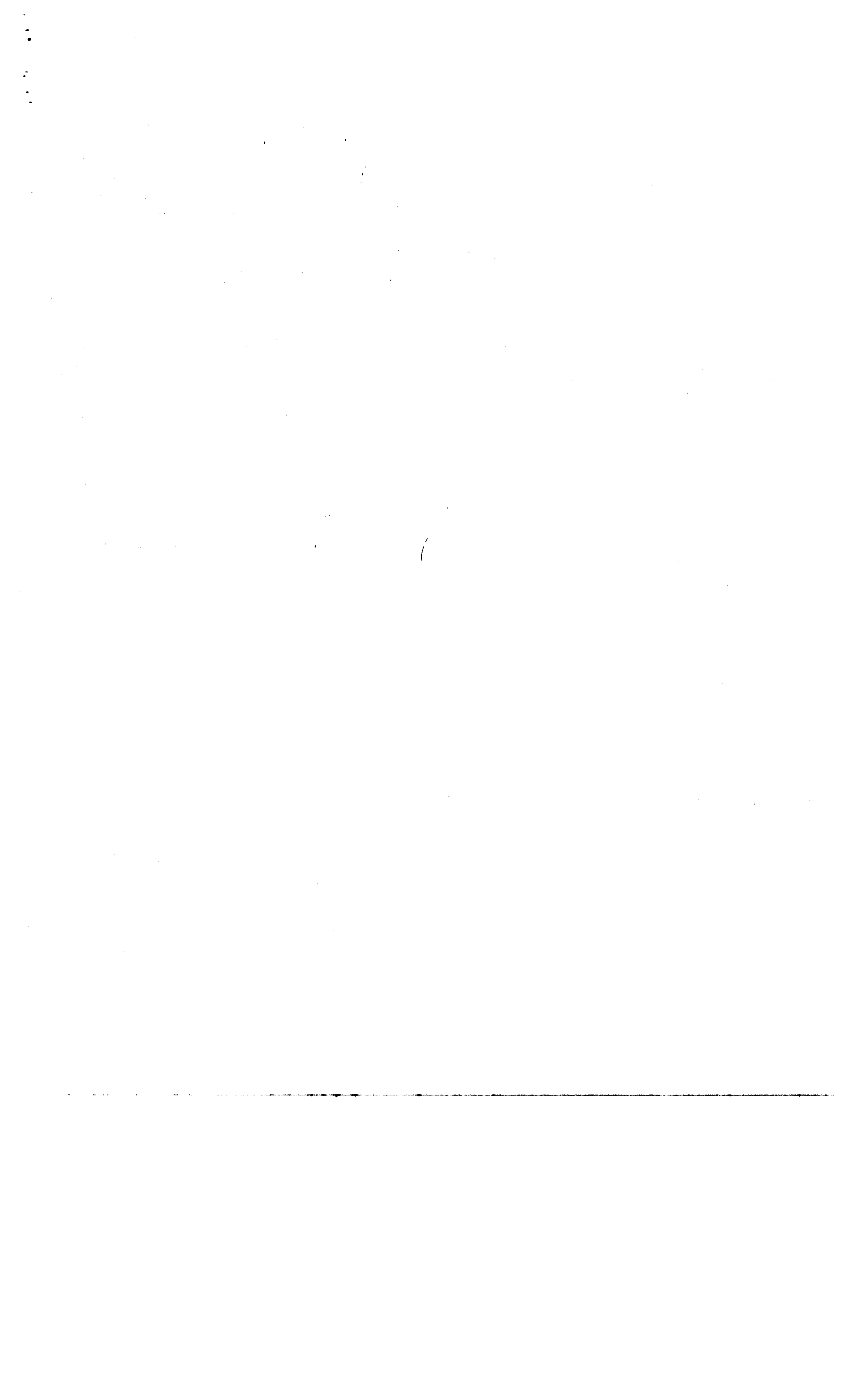
- *Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, DA 04-3553 (Int’l Bur. 2004):

“The parties to the MOU last revised the spectrum assignments in 1999 and, pending further negotiations, continue to operate with those assignments today.” (n.8)

- *Flexibility for Delivery of Communications by MSS Providers, Memorandum Opinion and Order and Second Order and ATC Reconsideration Order*, IB Docket Nos. 01-185, FCC 05-30 (February 25, 2005) (“*ATC Reconsideration Order*”):

“These negotiations have not occurred since 1999, and the 1999 coordination agreement remains in effect.” (¶ 38)

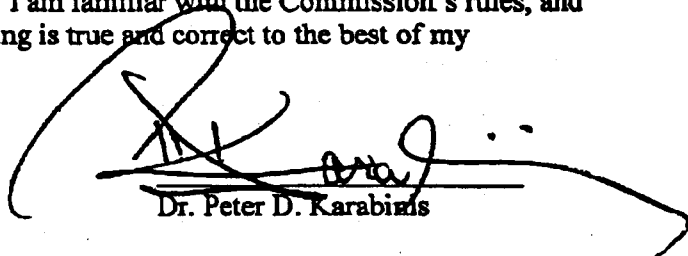
“The current coordination agreement under which Inmarsat and MSV share L-band spectrum was finalized in 1999. Ideally, the L-band MSS operators should renegotiate their coordination agreement every year. Indeed, changes to the existing coordination agreement could help avoid some of the potential interference issues that could arise from deployment of MSS/ATC. At the same time, however, we acknowledge that it could take a great deal of time and effort to conduct further coordination negotiations. For this reason, *in the case of any L-band frequency that is currently the subject of a coordination agreement and is shared between an MSS operator and an MSS/ATC operator*, we will permit an MSS/ATC to cause a small increase in interference to another MSS operator’s system above the coordinated interference level when the coordinated interference level is already greater than 6% T/T. This measure accounts for the reality that MSS is currently operating in the L-band, and that it may be necessary and appropriate to allow a slightly higher level of interference than currently coordinated levels allow in order to permit ATC to begin operations. When L-band MSS operators enter into a new coordination agreement, this additional interference allowance will no longer apply, and MSS/ATC operators will be required to operate its ATC within the limits coordinated by the parties.” (¶ 44) (emphasis added)



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 the foregoing. I am familiar with the Commission's rules, and the information contained in the foregoing is true and correct to the best of my knowledge and belief.



Dr. Peter D. Karabinis

Dated: December 19, 2005

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CERTIFICATE OF SERVICE

I, Sylvia Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 19th day of December 2005, served a true copy of the foregoing PUBLIC COPY by first-class United States mail, postage prepaid, upon the following:

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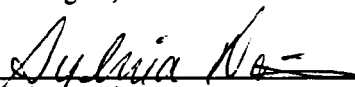
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Exhibit C

Excerpt from: Inmarsat plc Prospectus, Global Offer of Approximately 164.6 Million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per share.



Inmarsat plc Prospectus

Joint Bookrunners

JPMorgan Cazenove
(Joint Sponsors)

Lehman Brothers

Merrill Lynch International

Morgan Stanley
(Joint Sponsors)



Inmarsat Aero H is fitted to 80% of the current long-range air transport fleet. Future initiatives may include the introduction of GSM mobile phone services.

News broadcasters rely on Inmarsat GAN terminals to send their story home.

The maritime leisure market continues to grow, with Fleet terminals providing a full range of data and voice-based services.

A Regional BGAN terminal in use by the construction industry to download plans. Infrastructural projects often demand data on the move.

An Inmarsat I-4 - F1 satellite. Launched 11th March 2005, the I-4 is sixty times more powerful than the previous satellite generation.

Inmarsat continues to sponsor the work of Télécom Sans Frontières. Pictured: victims of the 2004 Tsunami make calls to relatives on Inmarsat Mini M phones.

Commercial satellites were used heavily by Governments during the Iraq crisis. Here, logistical teams keep track of equipment.

Inmarsat's Fleet F33/F55 terminals have been widely adopted by the fishing industry and by Government coastal patrols.

Maritime services represent over 50% of Inmarsat's revenue - \$251m in 2004. We provide safety services (GMDSS) as a regulatory requirement of ships at sea.

A copy of this document, which comprises a prospectus relating to Inmarsat plc (the "Company") as required by the Listing Rules (the "Listing Rules") made under section 74 of the Financial Services and Markets Act 2000 ("FSMA"), has been delivered to the Registrar of Companies in England and Wales for registration as required by section 83 of FSMA.

Application has been made to the UK Listing Authority and to the London Stock Exchange respectively for admission of all of the ordinary shares of €0.0005 each (the "Shares") issued and to be issued in connection with the Global Offer (as defined in "Part 11: Definitions"): (i) to the Official List of the UK Listing Authority (the "Official List"); and (ii) to the London Stock Exchange plc's (the "London Stock Exchange") market for listed securities (together "Admission"). Conditional dealings in the Shares are expected to commence on the London Stock Exchange on 17 June 2005. It is expected that Admission will become effective and that unconditional dealings in the Shares will commence on the London Stock Exchange at 8.00 a.m. (London time) on 22 June 2005.

All dealings before the commencement of unconditional dealings will be on a "when issued" basis and will be of no effect if Admission does not take place. Such dealings will be at the sole risk of the parties concerned.

The Directors (as defined in "Part 11: Definitions") and the Proposed Directors (as defined in "Part 11: Definitions") of Inmarsat plc, whose names appear on page 1 of this document, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors and the Proposed Directors, who have taken all reasonable care to ensure that such is the case, the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.

This document does not constitute an offer to sell, or the solicitation of an offer to buy, Shares in any jurisdiction where such offer or solicitation is unlawful. The Shares have not been, and will not be, registered under the US Securities Act of 1933 (the "Securities Act"), and, subject to certain exceptions, may not be offered or sold within the United States. The Shares are being offered and sold outside the United States pursuant to, and in reliance on, Regulation S ("Regulation S") under the Securities Act and within the United States only to qualified institutional buyers ("QIBs") as defined in Rule 144A ("Rule 144A") under the Securities Act in transactions exempt from the registration requirements of the Securities Act. Sellers of the Shares may be relying on the exemption from the provisions of Section 5 of the Securities Act provided by Rule 144A. For a description of these and certain further restrictions on offers, sales and transfers of the Shares and the distribution of this document, see paragraph 15 under "Part 10: Additional Information".

Anyone considering acquiring Shares in the Global Offer should read this document in its entirety and, in particular, "Part 1: Risk Factors".



Inmarsat plc

(incorporated and registered in England and Wales under the Companies Act 1985 with registered no. 4886072)

Global Offer of approximately 164.6 million Shares of €0.0005 each and admission to listing on the Official List and to trading on the London Stock Exchange at an Offer Price expected to be between 215p and 245p per Share

Joint Sponsors

JPMorgan Cazenove

Morgan Stanley

Joint Bookrunners

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Lehman Brothers

Merrill Lynch International

Morgan Stanley

Expected ordinary share capital immediately following Admission

<u>Authorised</u>		<u>Issued</u>	
Shares of €0.0005 each			
Number	Amount	Number	Amount
1,169,017,709	€584,509	473,572,588	€236,786

Our Inmarsat-4 Next-generation Satellites

In May 2000, we entered into a contract with Astrium SAS for the development and construction of three next-generation Inmarsat-4 satellites. These satellites were designed to support high-bandwidth data services by incorporating higher power transponders that can be focused into narrower beams than our earlier satellites. Each of our new Inmarsat-4 satellites has more than 200 narrow spot beams and 19 wide spot beams in addition to its global beam. The satellites also employ technology which enables us to adjust the size, shape and power of spot beams to meet changing user demand. The design of the spot beams on each of our Inmarsat-4 satellites allows us to use the available spectrum more than 12 times more efficiently than is possible on each of our Inmarsat-3 satellites. Accordingly, we expect that each Inmarsat-4 satellite will, when operational, be 60 times more powerful than an Inmarsat-3 satellite (measured by maximum power per channel) on the narrowest spot beam and each of our Inmarsat-4 satellites will be capable of providing approximately 16 times more communications capacity than each of our Inmarsat-3 satellites, based on estimates of forward and return data rates of GAN services on the Inmarsat-3 satellites and BGAN services on our Inmarsat-4 satellites.

On 11 March 2005, we launched our first Inmarsat-4 next-generation satellite and expect to launch a second Inmarsat-4 satellite in the second half of 2005 or in early 2006, depending on launch providers' schedules. The initial orbital positions of these two satellites should enable us to deliver next-generation high-bandwidth services to approximately 85% of the earth's land mass, covering approximately 98% of the earth's population. For further information on the areas of the earth's surface from which end-users will be able to access our BGAN services upon deployment of our second Inmarsat-4 satellite, see the map set out in "Our Services and End-Users" under the heading "Land-Based End-Users" in this "Part 2: Industry and Business". With the eventual launch of our third Inmarsat-4 satellite, the timing of which will depend on market-demand but is currently anticipated to be in 2007, our coverage will extend across the whole of the Pacific Ocean region and result in full global coverage by our Inmarsat-4 satellite fleet.

In December 2003, we entered into an agreement with Sea Launch Limited Partnership to provide one launch on a Zenith 3SL launch vehicle and an option for an additional launch for our Inmarsat-4 satellites. We currently intend to use a Sea Launch vehicle for the launch of our second Inmarsat-4 satellite. Our first Inmarsat-4 satellite was launched successfully using a launch vehicle provided by an affiliate of Lockheed Martin and we have options with this company for additional launch vehicles.

After we complete in-orbit testing of our first Inmarsat-4 satellite, we will position it at its orbital slot over the Indian Ocean region. Once this satellite has commenced operations and upon the successful launch and in-orbit arrival of further Inmarsat-4 satellites, we will reposition other Inmarsat satellites on a sequential basis. This will enable us to reconfigure our satellite fleet to ensure that we have the most capable and reliable satellites positioned in regions with the greatest current and anticipated future demand for our services. We intend to minimise the disruption end-users experience as we relocate our satellites.

Design and operating lives of our satellites

The following table sets out, for our Inmarsat-2, Inmarsat-3 and Inmarsat-4 satellites, the original design lives and projected operating lives (at present and after the planned relocations of our satellites following the successful deployment of our Inmarsat-4 satellites):

	Life Projections By Satellite		
	Original Design Life	Current Operational Life	Post-Relocation Operational Life ⁽¹⁾
Inmarsat-2			
F1	October 2000	July 2007	July 2007
F2	March 2001	May 2008	May 2008
F3	December 2001	March 2006	March 2006
F4	April 2002	June 2011	January 2010
Inmarsat-3			
F1	April 2009	October 2012	June 2012
F2	September 2009	April 2013	December 2012
F3	December 2009	May 2012	May 2012
F4	June 2010	June 2010	February 2010
F5	February 2011	October 2014	October 2014
Inmarsat-4			
F1	March 2020	Beyond 2020	N/A

(1) We plan to relocate certain Inmarsat-2 and Inmarsat-3 satellites following the deployment of our Inmarsat-4 satellite fleet to maximise the overall efficiency of our fleet and prepare the Inmarsat-2 satellite with the shortest remaining operational life for retirement.

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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 28th day of December 2005, served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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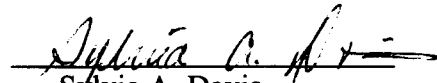
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