

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

In the matter of	)	
	)	
Stratos Communications, Inc.	)	File No. SES-STA-20061103-01946 (Call Sign E050249)
	)	
Telenor Satellite, Inc.	)	File No. SES-STA-20061027-01898 (Call Sign E050276)
	)	
BT Americas, Inc.	)	File No. SES-STA-20061101-01933 (Call Sign E060076)
	)	
MVS USA Inc.	)	File No. SES-STA-20061106-01955 (Call Sign E050348)

**RESPONSE OF MOBILE SATELLITE VENTURES SUBSIDIARY LLC**

Mobile Satellite Ventures Subsidiary LLC (“MSV”) hereby files this Response to the Joint Reply of Inmarsat Ventures Limited (“Inmarsat”) and Stratos Communications, Inc., Telenor Satellite, Inc., BT Americas Inc., and MVS USA, Inc. (collectively, the “BGAN Distributors”) submitted in the above-referenced proceeding in which the BGAN Distributors seek renewal of their grants of Special Temporary Authority (“STA”) to operate Broadband Global Area Network (“BGAN”) terminals using an uncoordinated Inmarsat satellite, Inmarsat 4F2 at 52.75°W.<sup>1</sup> In its Comments, MSV asked the International Bureau (“Bureau”) in acting on these renewal requests to (i) reject the request of Telenor to increase the number of BGAN terminals authorized under its STA grant from 5000 to 20,000;<sup>2</sup> (ii) clarify the conditions the Bureau imposed on grants of the STAs consistent with MSV’s June 12<sup>th</sup> Petition for

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<sup>1</sup> See Inmarsat Ventures Limited et al., Joint Reply, File No. SES-STA-20061027-01898 et al. (November 22, 2006) (“*Joint Reply*”).

<sup>2</sup> In the Joint Reply, Telenor clarifies that it is seeking to operate 5000 BGAN terminals pursuant to this STA -- not 20,000 as incorrectly stated in Telenor’s renewal application. See *Joint Reply* at 2; Telenor Satellite, Inc., Request for Special Temporary Authority, File No. SES-STA-20061027-01898 (filed October 27, 2006), Form 312 at Question 12.

Clarification,<sup>3</sup> and (iii) establish a firm expiration date for this STA and provide that no further extensions will be granted.

In their Reply, Inmarsat and the BGAN Distributors contend that BGAN service has been “successfully” provided in the United States for six months, thus purportedly demonstrating that the current conditions are adequate. *Joint Reply* at 1. In fact, although Inmarsat’s BGAN service was launched almost a year ago in December 2005,<sup>4</sup> Inmarsat and the BGAN Distributors state in the *Joint Reply* that there are only 6000 BGAN subscribers worldwide today. *Joint Reply* at 1. Inmarsat has explained that these terminals are used in 172 countries, with Inmarsat’s Chinese distribution partner accounting for 12% of BGAN sales, mostly to Chinese media, oil, and gas companies.<sup>5</sup> While MSV is not aware of any publicly available figures on the number of BGAN terminals deployed in the United States (and Inmarsat has failed to provide any such figure in the record of this or any other proceeding), it is safe to assume that only a fraction of the 6000 BGAN terminals activated worldwide today are used in the United States. Thus, despite the claims of Inmarsat and the BGAN Distributors, the operation of a handful (if any) BGAN terminals to date demonstrates nothing regarding the potential for interference if more and more BGAN terminals are operated in the future.

MSV has urged the Bureau to establish a firm expiration date for the BGAN STAs and provide that no further extensions will be granted without Inmarsat having first completed

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<sup>3</sup> See Mobile Satellite Ventures Subsidiary LLC, Comments, File No. SES-STA-20061027-01898 et al. (November 7, 2006) (“*MSV Comments*”) (attaching Mobile Satellite Ventures Subsidiary LLC, Petition for Clarification, File No. SES-STA-20060310-00419 et al (June 12, 2006) (attaching Letter from Ms. Jennifer A. Manner, MSV, to Ms. Marlene H. Dortch, FCC, File No. SES-STA-20060310-00419 et al. (May 26, 2006))).

<sup>4</sup> See Inmarsat Announces Launch of BGAN Service (December 7, 2005), available at: <http://about.inmarsat.com/news/00018831.aspx?language=EN&textonly=False>

<sup>5</sup> See Communications Daily (November 16, 2006), at 12 (quoting Inmarsat’s Chief Operating Officer).

coordination of its new satellite with other North American L band operators.<sup>6</sup> If, however, the Bureau continues to renew the BGAN STAs without insisting that Inmarsat first complete coordination, there are no reasonable prospects that such coordination will ever be successfully completed. This is especially the case now that Inmarsat has revealed that only 6000 BGAN terminals have been activated *worldwide* in the past year. Using Inmarsat's own estimate of 400 new BGAN activations worldwide per month (*Joint Reply* at 1), it will be *five years* before Inmarsat and its distributors approach the limit of 30,000 BGAN terminals authorized in the United States pursuant to STA. Given that the vast majority of BGAN terminals are used only outside of the United States, it will in fact take much longer than five years for the BGAN Distributors to approach the limit of 30,000 BGAN terminals. As such, only a firm expiration date for the BGAN STAs will provide Inmarsat with the needed incentive to satisfy its obligation to coordinate its satellite with MSV and other North American L band operators. Not only will successful coordination mitigate the harmful interference that would otherwise result from operation of Inmarsat's uncoordinated satellite, this coordination should also facilitate rebanding of L band spectrum into more contiguous frequency blocks that will increase efficient use of L band spectrum and maximize the potential for offering broadband services, which Chairman Martin recently explained is the Commission's top priority.<sup>7</sup>

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<sup>6</sup> See Mobile Satellite Ventures Subsidiary LLC, Comments, File No. SES-STA-20061019-01868 (Call Sign E060179) (October 24, 2006), at 4-5.

<sup>7</sup> See Remarks of FCC Chairman Kevin J. Martin, *Imagining the Digital Healthcare Future in the Rural West*, Montana State University – Bozeman (July 7, 2006). In the event that the Bureau permits the BGAN STAs to continue without establishing a firm expiration date, the Bureau should at least require the STA holders to disclose the number of BGAN terminals that are actually in operation using the Inmarsat-4 satellite that is serving the United States. L band operators can use this information to assess the potential aggregate interference to their operations.

Inmarsat and the BGAN Distributors also claim that there is no basis for terminating the STAs upon the end of hurricane season because there are other reasons justifying continuing grant of the STAs. *Joint Reply* at 2-3. As an initial matter, the Bureau never issued a decision explaining the “extraordinary circumstances” that justified grant of the STAs; thus, there is no basis for Inmarsat to assume that purported justifications other than hurricane season are sufficient to support grant of the STAs. In fact, of the reasons cited by Inmarsat and the BGAN Distributors as purportedly justifying grant of the STAs, hurricane season is the only one that could have reasonably met the “extraordinary circumstances” standard.<sup>8</sup> For example, while Inmarsat and the BGAN Distributors claim that the STAs are warranted because of the delay in processing the underlying applications for permanent authority to operate BGAN terminals (*Joint Reply* at 2), this delay is a circumstance of Inmarsat’s own making that is entirely within Inmarsat’s control. The Bureau has specifically stated that an applicant must demonstrate that an STA is necessary “due to circumstances beyond its control.”<sup>9</sup> Inmarsat is an experienced operator of satellites throughout the world. Inmarsat knows well its obligation to coordinate its new satellite and services with other L band operators. But, despite having many years to do so, Inmarsat has failed to coordinate the Inmarsat 4F2 and its BGAN service with the North American L band operators. Only Inmarsat – and neither the Commission nor MSV -- is to blame for Inmarsat’s failure to coordinate its new satellite and services.

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<sup>8</sup> 47 C.F.R. § 25.120(b)(1) (“The Commission may grant a temporary authorization only upon a finding that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of these temporary operations would seriously prejudice the public interest. Convenience to the applicant, such as marketing considerations or meeting scheduled customer in-service dates, will not be deemed sufficient for this purpose.”).

<sup>9</sup> *See Public Notice*, DA 87-1311 (September 25, 1987).

Inmarsat and the BGAN Distributors also disingenuously assert that the Commission has “long recognized” that an STA is justified any time an application has been pending for “a long period of time.”<sup>10</sup> In fact, this Commission policy applies only to “routine” earth station applications.<sup>11</sup> The pending BGAN applications are far from “routine,” given the harmful interference and international coordination issues involved. Moreover, the pending BGAN applications are the first applications to seek access to the foreign-licensed Inmarsat 4F2 satellite in the United States. As such, these applications are more than routine “earth station” applications because they present the Bureau with its first opportunity to consider the technical and policy issues presented by the operation of Inmarsat’s new foreign-licensed satellite in the United States. As such, the BGAN applications are more akin to *satellite* applications than earth station applications.<sup>12</sup> Accordingly, the Commission’s policies regarding processing of routine earth station applications do not apply to the applications pending to operate with Inmarsat 4F2.

Inmarsat and the BGAN Distributors also make unsupported claims regarding how BGAN service could potentially serve as a “powerful tool” for first responders and relief workers. *Joint Reply* at 2. Inmarsat and the BGAN Distributors, however, offer no evidence that first responders and relief works are actually using BGAN terminals today. If unsupported claims regarding *theoretical* users are sufficient to support grant of an STA, then there is no limit to what will justify grant of an STA in the future. In the event that “first responders” are actually using BGAN terminals in the United States today, the Bureau should limit the BGAN terminals

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<sup>10</sup> *Joint Reply* at 2 (citing *Amendment of Part 25 of the Commission's Rules, First Report and Order*, 6 FCC Rcd 2806, ¶ 27 (May 21, 1991)).

<sup>11</sup> *See* 6 FCC Rcd 2806, ¶ 27.

<sup>12</sup> *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 IP*”), at ¶¶ 189-190.

authorized under these STAs to those terminals that are issued to these “first responders,”<sup>13</sup> based on sworn affidavits provided by the STA holders supporting their claims.

Moreover, as MSV explained in its Comments, MSV is providing critical services today to actual first responders and relief workers. *MSV Comments* at 2-4. If BGAN terminals have been provided to first responders, it is most likely that the terminals would be used only during an emergency. During these emergencies, interference is likely to those first responders that use MSV’s service that are responding to the same emergency. As numerous public safety users have explained in letters to the Commission, renewal of the BGAN STAs comes at the expense of increased interference to the services MSV provides today to substantial numbers of federal, state, and local first responders and relief workers.<sup>14</sup> MSV urges the Bureau to protect the

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<sup>13</sup> The Bureau should define a “first responder” as a unit of the Federal Government or any entity that would qualify to hold a license under Section 90.523 of the Commission’s rules. *See* 47 C.F.R. § 90.523 (providing that State or local government entities and certain nongovernmental organizations that provide services, the sole or principal purpose of which is to protect the safety of life, health, or property, as well as satisfy other criteria, may qualify to hold certain licenses).

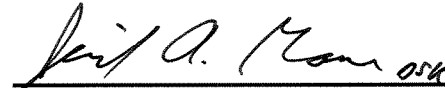
<sup>14</sup> *See* Letter from Commonwealth of Kentucky’s Division of Emergency Management to Ms. Marlene H. Dortch, FCC, File No. SES-LFS-20050826-01175 et al (July 24, 2006); Letter from Southwest Texas Regional Advisory Council for Trauma to Ms. Marlene H. Dortch, FCC, File No. SES-LFS-20050826-01175 et al (July 17, 2006); Letter from Mississippi Senator Merle Flowers to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 24, 2006); Letter from Bolivar County (MS) Emergency Management Agency to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 24, 2006); Letter from City of Orlando Emergency Management to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 24, 2006); Letter from Collier (FL) County Government to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 26, 2006); Letter from Alliance to Save Florida’s Trauma Care to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 24, 2006); Letter from Hernando County (FL) Emergency Management to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (June 12, 2006); Letter from Santa Rosa County (FL) Division of Emergency Management to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (June 15, 2006); Letter from Charles Barbour, Supervisor, Hinds County (MS) to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 26, 2006); Letter from Blue Cross and Blue Shield of Florida to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 23, 2006); Letter from Hinds County (MS) Sheriff’s Department to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 23, 2006); Letter from Community

existing and reliable services MSV currently provides to public safety users by establishing a firm expiration date for the BGAN STAs, rather than sacrificing these critical services for the sake of Inmarsat's business plans.

Respectfully submitted,



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Development Leagues of America, Inc. to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 25, 2006); Letter from Seminole County (FL) Department of Information Technologies to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (June 8, 2006); Letter from Florida Department of Agriculture and Consumer Services to Chairman Kevin J. Martin, FCC, File No. SES-LFS-20050826-01175 et al (May 24, 2006).

## CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Pillsbury Winthrop Shaw Pittman LLP, hereby certify that on this 5th day of December 2006, I served a true copy of the foregoing by first-class United States mail, postage prepaid, upon the following:

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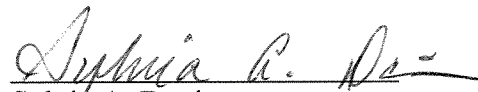
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