

Exhibit A

PETITION FOR WAIVER OF SECTIONS 25.137, 25.114, AND 2.106

I. Petition for Waiver of Sections 25.137 and 25.114

Pursuant to Section 25.137 of the Federal Communications Commission's ("Commission" or "FCC") rules, earth station applicants "requesting authority to operate with a non-U.S. licensed space station *to serve the United States*" must demonstrate that effective competitive opportunities exist and must provide the same technical information required by Section 25.114 for U.S.-licensed space stations.¹ Intelsat North America LLC ("Intelsat") herein seeks authority to provide launch and early orbit phase ("LEOP") services – not commercial services – to a foreign satellite from an earth station located in the United States, and thus believes that Section 25.137 does not apply.

To the extent the Commission determines, however, that Intelsat's request for authority to provide LEOP services on a special temporary basis is a request to serve the United States with a non U.S.-licensed satellite, Intelsat respectfully requests a waiver of Sections 25.137 and 25.114 of the Commission's rules.² The Commission may grant a waiver for good cause shown.³ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.⁴ In granting a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ Waiver is therefore appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

In this case, good cause exists for a waiver of both Section 25.137 and Section 25.114. With respect to Section 25.114, Intelsat seeks authority only to provide LEOP services for the Hispasat 1E satellite. The information sought by Section 25.114 is not relevant to LEOP services. Moreover, Intelsat does not have – and would not easily be able to obtain -- such information because Intelsat is not the operator of the Hispasat 1E satellite, nor is Intelsat in contractual privity with that operator. Rather, an affiliate of Intelsat has a contract with Space Systems Loral, the manufacturer of the Hispasat 1E satellite, to conduct LEOP services for the satellite.

¹ 47 C.F.R. § 25.137 (emphasis added).

² 47 C.F.R. §§ 25.137 and 25.114.

³ 47 C.F.R. §1.3.

⁴ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

The information that Intelsat is not including is not relevant to determine potential harmful interference. The Schedule S information for this satellite would pertain to the operation of the Hispasat 1E satellite at its final orbital location. However, the present application for LEOP services involves communications *prior* to the satellite attaining its final location in the geostationary orbit. In other words, during the LEOP mission, the earth station will not be communicating with a satellite located in the geostationary orbit. Rather, it will be transmitting to a satellite traveling on its “transfer orbit” or “LEOP path”, which starts immediately following its separation from a launch vehicle, and ends when the satellite reaches its geostationary orbital location. Moreover, as with any STA, Intelsat will perform the LEOP services on a non-interference basis.

Because it is not relevant to the service for which Intelsat seeks authorization, and because obtaining the information would be a hardship, Intelsat seeks a waiver of all the information required by Section 25.114. Intelsat has provided in this STA request the required technical information that is relevant to the LEOP services for which Intelsat seeks authorization.

Good cause also exists to waive Section 25.137. Section 25.137 is designed to ensure that “U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services” in other countries. Here, there is no service being provided by the satellite; it is simply being placed in its orbital location after separating from the launch vehicle. Thus, the purpose of the information required by Section 25.137 is not implicated here. For example, Section 25.137(d) requires earth station applicants requesting authority to operate with a non-U.S.-licensed space station that is not in orbit and operating to post a bond.⁶ The underlying purpose in having to post a bond – *i.e.*, to prevent warehousing of orbital locations by operators seeking to serve the United States – would not be served by requiring Intelsat to post a bond in order to provide approximately ten days of LEOP services to the Hispasat 1E satellite.

It is Intelsat’s understanding that Hispasat 1E is licensed by Spain, which is a WTO-member country. In addition, the satellite currently operating at the 30.0° W.L. location – Hispasat 1D – is on the FCC’s Permitted Space Station List⁷ and Intelsat expects Hispasat will seek U.S. market access for Hispasat 1E from that location as well. Thus, the purposes of Section 25.137 – to ensure that U.S. satellite operators enjoy “effective competitive opportunities” to serve foreign markets and to prevent warehousing of orbital locations serving the United States – will not be undermined by grant of this waiver request.

Finally, Intelsat notes that it expects to operate with the Hispasat 1E satellite using its U.S. earth station for a period of approximately ten days. Requiring Intelsat to obtain copious technical and legal information from an unrelated party, where such information

⁶ See 47 C.F.R. §25.137(d)(4).

⁷ See *HISPASAT S.A.; Petition for Declaratory Ruling To Add HISPASAT-1D Satellite at 30° W.L. to the Permitted Space Station List*, Order, 18 FCC Rcd 21,142 (2003).

is not relevant for the purpose of determining the potential for harmful interference and the operations will cease after approximately ten days, would pose undue hardship without serving underlying policy objectives. Given these particular facts, the waiver sought herein is plainly appropriate.

II. Petition for Waiver of Section 2.106

In order to conduct LEOP operations in the 12747.5 MHz band, this application for STA requests a waiver of the U.S. Table of Frequency Allocations, Section 2.106 of the Commission's rules.⁸ The 12700-12750 MHz band is allocated for fixed terrestrial, fixed satellite service (Earth-to-space) and mobile operations. Thus, Intelsat seeks waiver to provide fixed satellite service (space-to-Earth) in the 12747.5 MHz band. As shown below, good cause exists here to grant a waiver to allow Intelsat to provide temporary LEOP services using this frequency band.

Grant of the STA will serve the public interest because it will allow Intelsat to help launch the Hispasat 1E satellite to the 30.0° W.L. location. This, in turn, will help provide additional Ku-band capacity from that location.

Furthermore, grant of this waiver will not cause harmful interference. As with any STA, Intelsat will perform the LEOP services in the 12747.5 MHz bands on a non-harmful interference basis. In addition, Space Systems Loral will coordinate with co-frequency satellite operators in the LEOP path. Finally, the Comsearch report provided with this request indicates successful coordination with terrestrial users in the 12700-12750 MHz band. Accordingly, grant would be consistent with Commission precedent permitting non-conforming spectrum uses "when there is little potential interference into any service authorized under the Table of Frequency Allocations and when the non-conforming operator accepts any interference from authorized services."⁹

⁸ 47 C.F.R. § 2.106. The 14000-14500 MHz band is allocated for fixed-satellite (Earth-to-space) operations; thus, waiver is not required for the uplink TT&C frequencies to be used in the Hispasat 1E LEOP mission.

⁹ See *L-3 Communications Titan Corporation, Application for Authority to Operate a Mobile Earth Station to Provide Land Mobile Satellite Service in the Ku-Band*, Memorandum Opinion Order and Authorization, 24 FCC Rcd 3047, ¶ 9 (Int'l Bur. 2009) citing *Fugro-Chance, Inc.*, Order and Authorization, 10 FCC Rcd 2860 (Int'l Bur. 1995)