

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re)	
)	
Redesignation of the 17.7-19.7 GHz Frequency)	
Band, Blanket Licensing of Satellite Earth)	IB Docket No. 98-172
Stations in the 17.7-20.2 GHz and 27.5-30.0)	RM-9005
GHz Frequency Bands, and the Allocation of)	RM-9118
Additional Spectrum in the 17.3-17.8 GHz and)	
24.75-25.25 GHz Frequency Bands for Broadcast)	
Satellite-Service Use)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

OPPOSITION TO EMERGENCY REQUEST FOR IMMEDIATE RELIEF

KaStar Satellite Communications Corp. ("KaStar"), KaStarcom. World Satellite, LLC ("KaStarcom") and @Contact LLC ("@Contact")¹ hereby oppose the Emergency Request for Immediate Relief ("Request") filed on November 5, 1998 by the Independent Cable and Telecommunications Association ("ICTA").² For the reasons discussed herein, the Commission should dismiss or deny ICTA's Petition.

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List A B C D E

¹ KaStar is authorized to construct, launch and operate two Geostationery Orbit Fixed Satellite Service ("GSO FSS") satellites in the Ka-band. See *KaStar Satellite Communications Corp.*, 13 FCC Rcd 1366 (Int. Bur. 1997). KaStarcom has pending an application to construct, launch and operate two GSO FSS satellites in the Ka-band. @Contact has pending an application to construct, launch and operate an NGSO FSS system. As a satellite licensee and applicants, they have standing to oppose ICTA's Petition.

² Section 1.45(d) provides for the filing of oppositions to petitions seeking interim relief within seven days of the petition, *i.e.*, by November 12, 1998. Thus, this Opposition is timely filed.

I. ICTA'S REQUEST WOULD CAUSE SERIOUS HARM TO FSS LICENSEES

1. In its Request, ICTA asks the Commission to retract its decision to confer "secondary" status on applications in the 18.3-18.55 GHz band filed after September 18, 1998.³ ICTA cites the potentially harmful effect on the private cable business that the filing limitation would impose.

2. While taking great pains to identify the potential hardship that private cable operators might suffer as a result of the Commission's announcement, ICTA does not mention the potential harm that the fixed satellite service ("FSS") would suffer if the Commission were to continue to afford such applications primary or co-primary status. KaStar, along with twelve other licensees, was granted an authorization to provide a new generation of satellite services. KaStar, like the other FSS licensees, has expended hundreds of thousands of dollars to prosecute its application, develop its business plan, participate in international frequency coordination, negotiate financing agreements, negotiate satellite construction contracts and commence the operational phase of its business. Millions more have been committed for the actual construction of the satellites and their payloads, as well as the provision of internet, video, multimedia and telemedicine services to the public, not just domestically but globally. It is widely believed that FSS systems will provide meaningful competition to wired cable systems and internet service providers. Whereas terrestrial and wired services target commercial businesses and high end users in densely populated areas, FSS systems can provide these services to rural and urban locations on an equal basis.

³ See *Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, FCC 98-235 (released September 18, 1998) (the "NPRM").

3. In order to make these services available to the public at a reasonable price, FSS licensees require blanket licensing of FSS earth stations. Blanket licensing will permit manufacturers to mass produce FSS earth stations, thereby making the FSS earth stations affordable to the public. Blanket licensing eliminates the need to coordinate the earth stations with other receivers, thereby making installation easy for the public. These two factors – affordability and convenience – are critical to the success of FSS systems. Without blanket licensing, the spectrum would be functionally useless to FSS licensees.

II. THE *NPRM* BALANCES THE NEEDS OF FSS AND FS SYSTEMS

4. The Commission's reasoned decision to designate certain spectrum as secondary pending resolution of the rule making proceeding reflects a balanced approach to the needs of FSS and FS systems. The Commission could have made one of three decisions in processing FS applications after the *NPRM* release date. First, the Commission could have initiated a total "freeze" on the filing of FS applications. This would have prevented the filing of any FS applications and stifled the continued deployment of new FS stations. Second, the Commission could have permitted the continued deployment of FS stations on a co-primary basis and afforded them grandfather protection upon completion of the rule making proceeding. Under this option, FSS systems would have greater difficulty in blanket licensing their systems because continued deployment of FS stations in the affected portions of the 18 GHz band would increase the difficulty of successfully coordinating between FSS earth stations and the grandfathered FS stations. It thus would not have been reasonable to continue granting applications for FS stations if the continued

deployment would exacerbate an already difficult situation and undermine the blanket licensing of FSS earth stations.

5. Given the present congestion in the 18 GHz band and the difficulty in coordinating between FSS and FS systems, the relief requested by ICTA would not appear to best serve its interests. ICTA's Request claims that FSS and FS stations in the 18.14-18.58 GHz band can not successfully coordinate with one another and that the deployment of FSS earth stations in this band would prevent the future deployment of FS stations. If ICTA is correct, it would be illogical for the private cable operators to expend human and financial resources to engineer and file applications and for the Commission to expend administrative resources to process those applications, when, ultimately, those stations likely would be displaced or be subject to a lesser degree of interference protection when spectrum is re-allocated to FSS. It is therefore understandable why the Commission did not elect this option.

6. Instead, the Commission wisely chose to balance the competing needs of FSS and FS systems by grandfathering the existing FS stations and placing FS applicants on notice that the grandfather provisions would not be extended to those portions of the 18 GHz band where the Commission had tentatively concluded that FSS systems would have primary status and therefore could blanket license their earth stations. Simply put, the *NPRM* permits FS operators to continue to deploy in the 18 GHz band where the *NPRM* proposes to give them primary or co-primary status, but FS operators would deploy at their own risk where the *NPRM* proposed to accord FS stations secondary status. The *NPRM* reflects a well-reasoned and balanced approach that permits the continued development of FS systems while preserving spectrum for the future deployment of FSS systems.

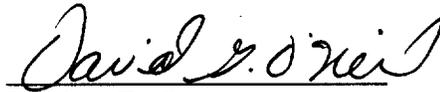
Conclusion

The Commission should dismiss or deny ICTA's Request. The Commission's decision to grandfather existing FS stations as of the *NPRM* release date and to accord subsequent filings secondary status reasonably takes into account both the needs of FSS and FS systems. Extending the grandfather date for FS stations would cause irreparable harm to the future deployment of FSS earth stations. The Commission should dismiss or deny ICTA's Request.

Respectfully submitted,

**KASTAR SATELLITE COMMUNICATIONS CORP.
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November 12, 1998

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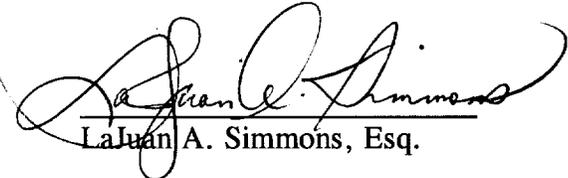
CERTIFICATE OF SERVICE

I, LaJuan A. Simmons, a secretary with the law firm of Rini, Coran & Lancellotta, do hereby certify that I have caused a copy of the foregoing "OPPOSITION TO EMERGENCY REQUEST FOR IMMEDIATE RELIEF" to be mailed, first-class, postage prepaid this 12th day of November 1998 to the following persons:

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