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April 27, 2000

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By Telecopier

Mr. Ari Fitzgerald
Office of the Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Room 8-B201N
Washington, D.C. 20554

Re: ***IB Docket No. 98-172***

Dear Mr. Fitzgerald:

As you know, Teledesic has attempted throughout this proceeding to make the Commission's approach to relocation issues more efficient for all parties and less costly for satellite service providers and the public at large. Since the Commission is writing on a clean slate at 18 GHz, it has a tremendous opportunity to retain the best of its *Emerging Technologies* rules while improving on the less efficient elements of the ET rules. Teledesic is alarmed, however, at the possibility that the Commission might improve upon its previous relocation orders for the 2 GHz band but apply the old rules to the 18 GHz band without substantial change. There are three important reasons why it would be illogical for the Commission to make relocation compensation more generous to the fixed service at 18 GHz than at 2 GHz.

First, while the 2 GHz relocation is required in order to introduce a new service into the band, the 18 GHz relocation is taking place between two services that are already co-primary throughout the entire band. This is not a situation in which a new service comes along and ejects a service that previously enjoyed exclusive access to the band. In the 18 GHz band, both satellite and terrestrial services have been co-primary for years, and both will remain in the band. But instead of giving each service shared access to the whole band, the Commission's band plan gives each service exclusive access to a portion of the band. The Commission has concluded that this redesignation benefits both services, and the compensation rules should reflect this fact. And indeed, virtually all commenters agree that this segmentation benefits both services, much as painting a yellow line down the middle of a road benefits both northbound and southbound drivers without either increasing or decreasing the size of the road. With virtually unanimous agreement that both terrestrial and satellite interests will benefit from segmentation of the 18

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GHz band, there is no logical reason to require the satellite industry alone to shoulder the cost burden -- let alone to shoulder the burden of paying for the upgrade that is inherent when older equipment is replaced by newer, more advanced equipment.

Second, while the *Emerging Technologies* rules already cover some of the bands involved in the 2 GHz MSS rulemaking, there are currently no relocation rules in the 18 GHz band. Terrestrial incumbents in the 18 GHz band cannot possibly have had any expectation that the *Emerging Technologies* rules would be applied to them, so it is difficult to imagine why the Commission would apply those rules to a new class of incumbents in the 18 GHz band at the same time it modifies them at 2 GHz.

Finally, it is noteworthy that FSS interests sought segmentation of the 18 GHz band as early as 1984, before either satellite or terrestrial services were deployed there. Fixed Service interests resisted, and the Commission adopted the co-primary allocations that the Commission now finds it in the public interest to alter. *Establishment of Spectrum Utilization Policy and Amendment to Commission Rules Regarding Digital Termination Systems,* 49 Fed. Reg. 37760, ¶¶ 37-41 (Sept. 26, 1984). The relocation costs that are necessary now are therefore costs the satellite industry tried to prevent. It would be inequitable to apportion those costs to the satellite industry, especially when the costs thus apportioned are demonstrably overly generous toward the FS incumbents who insisted on the inefficient sharing arrangement back in 1984.

In accordance with section 1.1206(b) of the Commission's rules, I am submitting 2 copies of this letter for filing with the Secretary's office. If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely

Mark A. Grannis
Counsel for Teledesic Corporation

cc: Magalie Roman Salas (2 copies)