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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
2000 Biennial Regulatory Review –	)	IB Docket No. 00-248
Streamlining and Other Revisions of part 25 of	)	
the Commission's Rules Governing the Licensing	)	
of, and Spectrum Usage by, Satellite Network	)	
Earth Stations and Space Stations	)	

COMMENTS OF TELESAT CANADA

1. Telesat Canada ("Telesat"), a Canadian-licensed fixed satellite service provider, hereby submits the following comments in response to the Notice of Proposed Rulemaking ("NPRM") adopted by the Federal Communications Commission ("FCC" or the "Commission") on 11 December 2000 in the above captioned proceeding. Telesat's comments focus on one issue, namely, the proposed streamlined affidavit approach for licensing "non-routine" earth stations, since it would have a direct impact on satellite coordination.

2. Currently, the Commission "routinely" licenses earth station facilities that meet its 2° orbital spacing technical standards, and will consider license applications which do not meet all of these technical standards on a case-by-case basis, to determine whether or not these proposed facilities would cause unacceptable interference to adjacent satellite systems (i.e., "non-routine" earth station applications). In the NPRM, the Commission notes that these case-by-case reviews are often a burdensome process. To alleviate this concern, the Commission proposes to replace the current process by requiring applicants to either: reduce their power levels to those that would be produced if the maximum allowable power level were transmitted by an antenna that complies with the Commission's 2° orbital spacing standards; or obtain affidavits from satellite operators showing that these operators are aware of the proposed non-routine earth station

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operations and have reflected those non-routine operations in agreements with other satellite operators.[1]

3. Telesat notes that there is precedent for the power reduction approach and it is commonly referred to in coordination agreements. The same, however, is not true of the affidavit approach. Indeed, while this approach appears to give satellite operators additional flexibility to coordinate through mutual agreement, unless very carefully controlled it could lead to coordination difficulties.

4. Specifically, the NPRM proposes to require coordination affidavits with operators of satellites located up to six degrees away from the satellite which the earth station applicant seeks to access. However, it is not clear that these affidavits would be required with all satellite operators – i.e., U.S. and foreign licensed (many of whom may not be on the FCC's Permitted Space Station list) – within this six degree range, or whether it would only apply with respect to U.S.-licensed satellites located within this range. To bring certainty to this matter, if the affidavit method is to be used, Telesat recommends that the revised Commission rules state explicitly that the affidavit from the satellite operator whose network contains the non-conforming antenna must indicate that the non-conforming antenna has been coordinated with all satellite operators – U.S. and foreign-licensed – within the six degree range.

5. A procedure to expedite the affidavit process is also proposed in the NPRM. This procedure relies upon a 30-day Public Notice approach under which the onus would be on the operators of nearby satellite networks to notify the Commission of potential interference problems resulting from non-conforming earth stations. Moreover, the NPRM states that under this approach the Commission would "not need to delay action on a license application merely because the space station operator has not completed coordination agreements with all the potentially affected adjacent satellite system operators."[2]

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[1] NPRM at ¶¶ 8-9.
[2] NPRM at ¶¶ 34-36.

6. This proposed procedure causes Telesat major concerns. In particular, Telesat does not believe it is appropriate that the onus should be on satellite operators to notify the Commission of potential problems with non-conforming antennas operating within the U.S. Rather, as it is the earth station operator that seeks to operate an antenna that does not conform with the Commission's policy standards, the onus would most appropriately be on this operator to satisfy the Commission that no harmful interference will result for other satellite network operators. In this regard Telesat notes that many foreign-licensed operators may not normally follow FCC Public Notices and therefore would not even be aware of potential problem situations with non-conforming operators until it would be too late. Telesat therefore recommends that explicit agreements should be required with all satellite operators – U.S. and foreign-licensed – having satellites within six degrees of the satellite whose network contains the non-conforming antenna.

7. Telesat would also note that coordination agreements that are negotiated between satellite operators usually have a finite lifetime and are often modified or replaced to take into account satellite launches or other changes. Additional orbital positions also come into use as new operators enter a particular market. This trend is particularly pronounced as a result of the 1997 WTO/GATS Agreement on telecommunications. However, language within the NPRM indicates that current coordination arrangements for non-conforming antennas could somehow be made binding in future arrangements as well.

8. For example, at ¶ 23 of the NPRM, it is stated that, "Once the earth station applicant demonstrates that current *and future adjacent satellite system operators* will take the non-routine operations into account when negotiating coordination agreements, [the Commission] will rely on this to conclude that the earth station will neither cause unacceptable interference to nor receive unacceptable interference from adjacent satellite systems." (emphasis added) Similarly, at ¶ 32, the third bullet in this passage indicates that "the satellite operator will include the non-conforming earth station power and power densities in all *future satellite network coordination* for the specific satellite at the desired orbital location." (emphasis added) In fact, satellite operators can only attest that the non-conforming antennas have been taken into account in the context of current coordination agreements. It is logical to assume that the satellite operator whose network contains the non-conforming antenna would attempt to extend such coordination to future agreements, but there can be no guarantee of success. Telesat therefore believes that the

Commission's rules must make it clear that the affidavit approach has inherent risk to the earth station operator and that other means, such as antenna replacement or power reduction, may be required in the future.

All of which is respectfully submitted this 26th day of March 2001.

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