

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

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| In the Matter of |) | |
| |) | |
| Flexibility for Delivery of |) | IB Docket No. 01-185 |
| Communications by Mobile Satellite |) | |
| Service Providers in the 2 GHz Band, |) | |
| L-Band, and the 1.6/2.4 GHz Band |) | |
| |) | |
| Amendment of Section 2.106 of the |) | ET Docket No. 95-18 |
| Commission's Rules to Allocate |) | |
| Spectrum at 2 GHz for Use by the |) | |
| Mobile Satellite Service |) | |

COMMENTS OF KITCOMM SATELLITE COMMUNICATIONS LTD.

KITComm Satellite Communications Ltd. ("KITComm"), by its attorneys, hereby responds to the Federal Communications Commission's ("FCC" or the "Commission") Notice of Proposed Rulemaking ("NPRM"), in which it seeks public comment regarding proposals that mobile satellite operators be permitted to use ancillary terrestrial components ("ATCs") to enhance the delivery of mobile satellite services ("MSS").

I. BACKGROUND

KITComm is an interested party in this proceeding. In January 1998, KITComm submitted a Letter of Intent ("LOI") with the Commission to serve the U.S. market using a constellation of non-geostationary orbiting satellites operating in the "lower" L-Band to provide two-way communication and geolocation services.¹ KITComm's primary

¹ Letter of Intent of KITComm Satellite Communications Ltd., File No. 85-SAT-LOI-98 (filed January 30, 1998).

business will be the provision of innovative tracking and monitoring services for fixed and mobile assets. KITComm’s system, which is licensed by the Government of Australia, would operate at 1525-1530 MHz in the space-to-earth direction and 1626.5-1631.5 MHz in the earth-to-space direction. Thus, KITComm’s operations are in the “lower” L-Band as defined by the Commission and in part just above the 1.6/2.4 GHz “Big LEO” band, two of the three bands covered by this NPRM. KITComm’s comments are focused primarily on these two bands, though the concerns it describes below could also apply to the third MSS band covered by this NPRM, the 2 GHz Band.

Further, KITComm has previously expressed its concerns² regarding the applications of Motient Services Inc. (“Motient”)³ and Mobile Satellite Ventures Subsidiary LLC and TMI Communications and Company Limited Partnership (“TMI” and collectively, “the Applicants”)⁴, which have proposed to combine their existing satellite system operations over North America and to launch a new generation satellite system in approximately five years. The new satellite system, as proposed, would utilize ATCs. In its *Opposition* in response to the Applicants’ applications, KITComm expressed concerns about the Applicants’ expansive spectrum request for the new satellite system, encompassing all of both the “lower” and “upper” L-Bands. KITComm argued that, if the Applicants’ entire spectrum request were granted, they could argue that

² See *Opposition of KITComm Satellite Communications Ltd.*, File No. SAT-ASG-20010302-00017, April 18, 2001; and *Reply Comments of KITComm Satellite Communications Ltd.*, File No. SAT-ASG-20010302-00017, May 21, 2001.

³ Motient Services, Inc. and Motient Satellite Ventures Subsidiary, Application for Assignment of License, File Nos. SAT-ASG-20010302-00017, *et al.*, (filed March 19, 2001) (“Motient Application”).

⁴ TMI Communications and Company, Limited Partnership, Application for Assignment of License, File No. SES-ASG-20010116-00099 (filed January 31, 2001) and Applications for Modification, File Nos. SES-MOD-20010116-00097 and SES-MOD-20010116-00098 (filed January 31, 2001) (collectively “TMI Application”).

no other MSS operator should be permitted to use the L-Band over North America.⁵ KITComm did not address the ATC question in its *Opposition* because the FCC had not accepted that portion of their application. However, since other parties in the first round of comments had addressed concerns about ATCs, KITComm noted in its *Reply Comments* that use of ATCs created anti-competitive concerns in addition to the Applicants' expansive spectrum request. ATCs have the potential to create a blanket of interference over significant portions of the U.S. landmass and population.⁶ KITComm incorporates by reference its *Opposition* and *Reply Comments* in that proceeding.

II. DISCUSSION

In this NPRM, the Commission asks many questions concerning whether, and under what conditions, operators in three MSS bands (the L-Band, the 1.6/2.4 GHz “Big LEO” Band, and the 2 GHz Band) and might be permitted to incorporate ATCs into their networks. As described by the FCC, such ATCs, if permitted, might be operated by either the MSS operators themselves or by third parties. KITComm is fully supportive of proposals that enhance the competitiveness of the MSS industry. However, it has a very basic concern regarding the use of ATCs in MSS bands by any party. Unless the technical parameters for the operation of such ATCs are carefully set, their use will have a devastating impact on MSS competition.

MSS user terminals, by their very nature, are sensitive devices and operate generally in environments that already have a fair share of potential interference sources.

⁵ KITComm *Opposition* at 5-6.

⁶ KITComm *Reply Comments* at 4-5.

KITComm's design, for example, takes into consideration these factors and is designed to operate in an interference-rich environment without contributing significantly to the noise level in that environment.

ATCs, in order to accomplish their proponents' goal of penetrating into urban canyons and buildings, will unavoidably and drastically alter the in-band and out-of-band interference environment for MSS operators in the same or adjacent bands. The effect, given the sensitivity of MSS user terminals, could be to essentially drown out competition from other, non-ATC equipped operators. Such a result would be anti-competitive and against the Commission's existing MSS policies.⁷ Moreover, it would eradicate welcome differentiation of services among MSS operators, some of whose services are not amenable to the use of ATCs. KITComm's proposed services are notably geared for use with low duty-rate user terminals that would not require the use of ATCs.

In this proceeding, ATC proponents should be required to lay out in concrete technical terms how they propose to use ATCs while at the same time protecting the operations of other satellite systems not using ATCs in the same or adjacent bands. In turn, the FCC should not conclude this proceeding, if it chooses to permit the use of ATCs, without specifying the technical parameters by which such ATCs could be operated. Those parameters should protect MSS operators from interference caused by the operation of ATCs.

⁷ See In the Matter of the Applications of Satcom Systems, Inc. and TMI Communications and Company, L.P., *Order and Authorization*, 14 FCC Rcd 20798 (1999).

III. CONCLUSION

The Commission has been asked by two licensees operating in two different MSS bands to approve the use of ATCs. We commend the FCC for taking a laudably cautious approach to these proposals, which, if approved, would have a profound impact on the development of the MSS industry. On balance, KITComm is concerned that the impact of ATCs on the MSS industry would be negative and anti-competitive unless carefully circumscribed.

KITComm urges the Commission to continue its deliberate approach and examine in all respects the potential impact of ATCs on the competitive structure of the MSS industry before permitting the use of ATCs in any form. If ATCs are permitted, the Commission should carefully prescribe the technical limitations on such systems so as not to foreclose the opportunities of other MSS operators that may choose not to use ATCs.

Respectfully submitted,

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