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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Capitol Heights, MD 20743

In the Matter of the	)	
	)	
Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band and the1.6/2.4 GHz Band	)	IB Docket No. 01-185
	)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service	)	ET Docket No. 95-18

COMMENTS OF
TMI COMMUNICATIONS AND COMPANY,
LIMITED PARTNERSHIP

TMI Communications and Company, Limited Partnership ("TMI"), a Canadian mobile satellite service provider authorized to operate in the 2 GHz band,[1] hereby comments on the FCC's *Notice of Proposed Rulemaking* in the above-referenced docket.[2]

TMI strongly supports modification of the FCC's rules and policies, as needed, to permit any entities authorized to operate in the 2 GHz band under a license *or* Letter of Intent "LOI") to have the same flexibility for the ancillary terrestrial use of frequencies as the FCC may provide for operators in other mobile satellite service ("MSS") bands. Any 2 GHz MSS provider should be permitted to operate terrestrial

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1 *See* TMI Communications and Company, Limited Partnership, Letter of Intent to Provide Mobile Satellite Services in the 2 GHz Bands, DA 01-1638, released July 17, 2001.

2 *See* Flexibility for Delivery of Mobile Satellite Services in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band; Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service, IB Docket No. 01-185, ET Docket No. 95-18, *Notice of Proposed Rulemaking*, FCC 01-225 (adopted Aug. 9, 2001) ("NPRM"). TMI is also joining in the comments filed concurrently herewith by its joint venture partner, Motient Services, Inc., which primarily address the flexible use of L-band MSS spectrum.

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stations outside its primary frequency assignment on a secondary basis as desired. In addition, ancillary terrestrial operations on an operator's primary frequency should be unlimited.

In implementing a new regime to permit the flexible use of the 2 GHz MSS band, the FCC also should take into account the following considerations.

A. Technical Matters

First, TMI believes that secondary terrestrial operation should not have an impact on inter-system sharing or encumber other system operators. Operation outside a "selected assignment" or "selected segment," whether for MSS or ancillary terrestrial use, will be possible only when there is no other MSS operator using the same frequencies contemporaneously in the same area. Any such co-channel operation likely would have to cease when another operator is ready to begin operation in the same frequency range and should not be a factor in an operator's selection of frequencies.

Second, because the allocation of both terrestrial and satellite frequencies must be under the control of a common resource allocator, operation outside a "selected assignment" or "selected segment" should be both feasible and desirable due to the enhanced spectral efficiency. The impact on system architecture of such use would be minimum, being limited to altering the lookup tables of allowable frequency ranges in the resource allocator when the frequencies are first made available and again when they must be vacated to allow the operation of the new entrant.

Third, where MSS operators have devised a sharing scheme involving more than one "selected assignment," they should be permitted to operate terrestrial facilities using all of the aggregated or shared selected assignment spectrum. An MSS operator's authority to provide service using terrestrial stations should be ancillary to

the provision of MSS services. Therefore, no terrestrial stations should be allowed to be operational until the associated MSS network is also operational and the MSS operator's authority to provide service using terrestrial stations should be revoked if the operator ceases to use its MSS frequencies for satellite service.[3]

Fourth, in response to the *NPRM's* questions in Paragraphs 55 and 56, TMI believes that the limits on out-of-band emissions for the terrestrial equipment for both the 2GHz and L-band terrestrial services should be the same. The limits on tower heights and transmit powers for the base stations should both be modeled on the limits currently applied to broadband PCS systems.

Fifth, TMI supports the assertion of ICO Global Communications (Holdings) Ltd. ("ICO") that the key to mitigating interference and to ensuring that the satellite and terrestrial operations can successfully share spectrum is to have a single entity responsible for fully integrated operation of the MSS network. With respect to inter-system interference, any MSS system employing ancillary terrestrial use must be designed to produce negligible additional interference to other MSS operators in the 2 GHz bands, whether or not such operators also employ ancillary terrestrial use of their frequencies.

Sixth, in response to Paragraph 69 of the *NPRM*, TMI does not support modification of the Table of Allocations to permit both fixed and mobile use of the 2 GHz band on a co-primary basis. The primary allocation to the MSS (taking into account the grandfather provisions) should remain unchanged. The provision by MSS operators of ancillary terrestrial services should be adequately covered by the existing secondary allocations, since such use should not require additional protection or cause additional interference relative to the primary MSS use.

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[3] In the event of a catastrophic satellite failure, however, an authorized party should be granted adequate time to put replacement facilities into service.

Seventh, TMI has the following comments regarding the impact of ancillary terrestrial use on reallocation of existing users in the Broadcast Auxiliary Service ("BAS") and Fixed Microwave ("FX") service: With respect to BAS in the 1990-2025 MHz band, TMI agrees with the Commission that once a market has been "cleared" of BAS in the MSS uplink spectrum, the addition of ancillary terrestrial service by the MSS operator should not raise any additional interference concerns. With respect to FX operations in the 2165-2200 MHz band, TMI agrees that the use of ancillary terrestrial service will require additional technical analysis for interference between such ancillary terrestrial use and incumbent FS services. Accordingly, the FCC may wish to revisit the negotiation period between new and existing users.

B. Service Providers Operating Under a Letter of Intent

Consistent with the FCC's *DISCO II Order*, implementing the market access obligations of the U.S. under the World Trade Organization ("WTO") Basic Agreement on Telecommunications, foreign-licensed MSS entities operating under a Letter of Intent ("LOI") must be granted the same opportunity to use MSS spectrum for terrestrial services as U.S.-licensed operators. Parity is best provided, in TMI's view, through adoption, with minor modification, of the initial options proposed in Paragraph 52 of the *NPRM* and the proposed amendments to the MSS service rules detailed in Paragraph 78.

More specifically, an MSS entity that has already been granted an LOI to provide satellite service should be authorized to provide terrestrial services merely upon filing a letter request seeking an appropriate modification of its existing LOI. A radio frequency plan should not be required with the modification request because the technical rules adopted for the MSS should be sufficient to address any interference problem. In addition, the FCC's rules should permit a party to file an application to

use terrestrial facilities in conjunction with a foreign-licensed MSS system operating under an LOI. Such an application should be processed in the same manner as application for blanket earth station licenses.

In adopting the foregoing amendments, the FCC also should expressly state that its rule changes are intended to ensure that U.S. and foreign-licensed MSS operators providing service in the United States have the same opportunity to make terrestrial use of relevant MSS spectrum.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Learetta L. Parrett, hereby certify that on this 22nd day of October, 2001, a copy of the foregoing Comments of TMI Communications and Company, Limited Partnership, was either mailed first class, postage pre-paid, or hand delivered* to each of the following:

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