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Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of		
	)	
Flexibility for Delivery	)	IB Docket No. 01-185
Of Communications by	)	
Mobile-Satellite Service Providers	)	
In the 2 GHz Band, the 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	)	

To: The Commission

COMMENTS OF
MOBILE COMMUNICATIONS HOLDINGS, INC.

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TABLE OF CONTENTS

EXECUTIVE SUMMARY ii

I. THE COMMISSION SHOULD GRANT ATC AUTHORITY TO MSS LICENSEES 2

A. Convergence in the Mobile Telecommunications Industry: IMT-2000 3

B. The Public Interest Benefit of Ubiquitous Mobile Service is Unique to MSS Providers 5

C. ATC Authority is the Type of Operational Flexibility That is Required to Facilitate the Development of Third Generation Networks in the United States 8

II. CONCLUSION 12

COMMENTS OF MOBILE COMMUNICATIONS HOLDINGS, INC.

EXECUTIVE SUMMARY

The Commission should adopt its proposal to authorize Mobile-Satellite Service ("MSS") licensees to operate an ancillary terrestrial component ("ATC') to their MSS satellite networks. The terrestrial and satellite sectors of the mobile industry are rapidly converging and future regulation of the industry must take this into account. Third generation networks, which will operate using the IMT-2000 protocol developed by the International Telecommunication Union ("ITU"), will utilize both terrestrial and satellite platforms in order to provide the most complete coverage possible. Therefore, grant of terrestrial authority to MSS licensees is perhaps the most effective means available to facilitate the introduction of third generation mobile services in the United States.

Thus far, cellular operators have failed to recognize the complementary nature of satellite and terrestrial services. Instead, they incorrectly perceive the MSS industry to be a competitor in the cellular operators' efforts to obtain additional spectrum. A grant of ATC authority provides an ideal platform for the launch of third generation satellite/terrestrial networks in which the cellular industry also can participate and benefit.

Grant of ATC authority is fully consistent with Commission precedent. Commission policy dictates authorizing the flexible use of spectrum to enable licensees to best meet market demand and most efficiently utilize their spectrum assignments. ATC authority will increase MSS subscribership by overcoming urban and indoor reception problems, and will not in any way reduce the services that MSS providers offer over their satellite systems. Also, ATC authority will increase MSS licensees' spectrum-use efficiency through terrestrial reuse in urban markets. In addition, ATC authority will not interfere with the use of spectrum by any other licensee. Finally, the benefits of ATC authority will be realized most fully by MSS licensees if the Commission permits the licensees to enter into agreements to aggregate spectrum.

For these reasons, ATC authority should be granted to MSS licensees expeditiously.

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Flexibility for Delivery Of Communications by Mobile-Satellite Service Providers In the 2 GHz Band, the L-Band, and the 1.6/2.4 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

To: The Commission

COMMENTS OF
MOBILE COMMUNICATIONS HOLDINGS, INC.

Mobile Communications Holdings, Inc. ("MCHI"), by its attorneys and pursuant to Section 1.415 of the rules of the Federal Communications Commission ("Commission"),[1] hereby submits these Comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.[2] In its NPRM, the Commission proposes to authorize certain Mobile-Satellite Service ("MSS") licensees to operate ancillary terrestrial components ("ATC") integrated with their MSS satellite networks.

On July 17, 2001, MCHI was awarded a 2 GHz MSS space station license to launch and operate a 26-satellite nongeostationary satellite constellation.[3] In addition, MCHI was granted a

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[1] 47 C.F.R. § 1.415

[2] Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band, Notice of Proposed Rulemaking, IB Docket No. 01-185, ET Docket No. 95-18, Commission 01-225 (rel. Aug. 17, 2001) ("NPRM").

[3] Application of Mobile Communications Holdings, Inc. Concerning Use of the 1990-2025/2165-2200 MHz and Associated Frequency Bands for a Mobile-Satellite System, Order

Big LEO MSS space station license in 1997 to construct, launch, and operate a 16-satellite constellation.[4] The Commission has proposed to grant ATC authority to both 2 GHz and Big LEO licensees and thus MCHI has a substantial interest in the outcome of this proceeding.

I. THE COMMISSION SHOULD GRANT ATC AUTHORITY TO MSS LICENSEES

The Commission's proposal to authorize MSS licensees to operate ATC networks using the licensees' assigned MSS spectrum will promote the advancement of mobile technology and thus should be adopted expeditiously. As the trend towards convergence of disparate telecommunications technologies and platforms progresses throughout the telecommunications industry, regulators are faced with the ongoing challenge of promoting the public interest by encouraging innovation in the use of spectrum and technology to provide consumers new, more competitive services. To avoid erecting excessive regulatory obstacles that impede the advances that will result from convergence in the mobile industry, the Commission should seek means of transitioning its spectrum-use policies to a platform-neutral paradigm. Enabling MSS licensees to operate ATC networks using their assigned spectrum is a positive step towards this new model. Such a grant of operational flexibility will revitalize the MSS industry, is spectrum efficient, and will impose no costs on the U.S. public or other licensees.

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and Authorization, DA 01-1637 (rel. July 17, 2001) (File Nos. 180-SAT-P/LA-97(26); IBFS Nos. SAT-LOA-19970926-00150, SAT-AMD-20001103-00157).

[4] Mobile Communications Holdings, Inc. for Authority to Construct, Launch, and Operate an Elliptical Low Earth Orbit Mobile Satellite System, Order and Authorization, 12 FCC Rcd 9663 (1997) (FCC File Nos. File Nos. 11-DSS-P-91(6); 18-DSS-P-91(18); 11-SAT-LA-95; 12-SAT-AMEND-95; 158-SAT-AMEND-96). MCHI's Big LEO license was cancelled by the Commission in May 2001. Mobile Communications Holdings, Inc. Authority to Construct, Launch, and Operate an Elliptical Low-Earth-Orbit Mobile-Satellite Service System, DA 01-1315 (rel. May 31, 2001) (FCC File Nos. 11-DSS-P-91(6); 18-DSS-P-91(18); 11-SAT-LA-95; 12-SAT-AMEND-95; 158-SAT-AMEND-96; Call Sign S2111). MCHI has petitioned the Commission to reconsider this decision and this proceeding remains pending.

A. Convergence in the Mobile Telecommunications Industry: IMT-2000

The rapid transition from analog to digital communications technologies has caused massive convergence in all areas of telecommunications. Prior to the past decade, voice and (very slow) data communications primarily were provided over the public-switched telephone network and mass media services primarily were provided over broadcast spectrum or coaxial cable. Now, all varieties of communications—voice, data, and broadcast—have become virtually fungible and regularly are carried by all types of communications platforms—mobile and fixed satellite systems; fixed, mobile, and local area wireless terrestrial networks; traditional phone lines (both copper and fiber); cable; and traditional broadcast antenna. Further, a new distribution platform has emerged—the Internet—that is capable of seamlessly reaching virtually every home in America and that provides a single transmission method for every imaginable communications media.[5]

The mobile telecommunications sector also is experiencing convergence, albeit in its early stages. Cellular operators repeatedly have characterized the mobile industry as an antagonistic rivalry between cellular operators and MSS satellite licensees. In fact, the mobile industry will evolve into an integrated terrestrial/MSS network, and, as such, *provides every bit*

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[5] Although the Internet currently is primarily carried and accessed via wireline technologies, the working assumption among telecommunications analysts is that the wireless, mobile Internet is just around the corner and quickly will evolve into a significant and large market. See, e.g., Press Release, Int'l Telecomm. Union, ITU Gives Final Approval to IMT-2000 Radio Interface Specifications, at http://www.itu.int/newsroom/press/releases/2000/10.html ("Estimates show that the 3G market is expected to grow from US$1.5 billion in 2001 to US$9.2 billion in 2005, with investment in infrastructure to support 3G services reaching some US$1 billion in 2001 and peak in 2003 at over US$5 billion."); ITU Gives Final Approval to IMT-2000 Radio Interface Specifications, M2 PRESSWIRE, May 10, 2000 (estimating that the 3G market in the U.S. will grow to nearly $10 billion annually by 2005); Christopher J. Banks, The Third Generation of Wireless Communications: The Intersection of Policy, Technology, and Popular Culture, 32 LAW & POL'Y INT'L BUS. 585 (2001) (estimating that the number of people that access the Internet using mobile devices in the United States will increase from 7.4 million in 1999 to 61.5 million in 2003, and that globally the number could reach one billion by 2003) (internal citations omitted).

as much of an opportunity for today's cellular industry as it does for MSS systems. Cellular operators do not, and never will, offer ubiquitous network coverage, and experience has demonstrated that MSS-only networks operate with difficulty in certain urban environments and are inadequate for indoor coverage. Thus, rather than competitors jockeying for spectrum, the terrestrial and satellite mobile wireless sectors should be viewed as complementary components of an emerging, integrated mobile wireless industry. Such mobile convergence is nowhere more apparent than in the International Mobile Telecommunications-2000 ("IMT-2000") third generation telecommunications standard developed by the International Telecommunication Union ("ITU").[6]

The ITU began developing IMT-2000 over a decade ago "to leapfrog the fragmentation which prevail[s] . . . in the wireless world."[7] The standard, which continues to be further developed through an international collaborative effort led by the ITU with strong US official and private sector participation, "provides [a] framework for worldwide wireless access by linking the diverse system of terrestrial and/or satellite based networks" to "exploit the potential synergy between the digital mobile telecommunications technologies and [terrestrial and

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[6] The ITU is an international organization dating back to 1865 which establishes telecommunications standards and facilitates international spectrum coordination. See George A. Codding, Jr., The International Telecommunications Union: 130 Years of Telecommunications Regulation, **23 DENV. J. INT'L L. & POL'Y 501** (1995); see also the ITU website at http://www.itu.int/aboutitu/history/history.html (providing a brief history of the origins and current mission of the ITU).

[7] See Fabio Leite, Counsellor, Radiocommunication Bureau, International Telecommunication Union, Opening Address at the IMT-2000: The Global Standard for Third Generation Wireless Communications (June 14, 2000) (transcript available at http://www.itu.int/imt/what_is/imt/index.html); see also Press Release, Int'l Telecomm. Union, ITU Gives Final Approval to IMT-2000 Radio Interface Specifications, at http://www.itu.int/newsroom/press/releases/2000/10.html (May 8, 2000) (describing the goals recognized through the development of IMT-2000).

satellite] systems."[8] According to the ITU, third generation systems will be characterized, *inter alia*, by the following attributes:

- incorporation of a variety of systems, including MSS and terrestrial fixed and mobile networks, with the provision of services by more than one variety of network in any coverage area;
- a high degree of commonality of design and compatibility of services worldwide;
- high quality and integrity, comparable to wireline networks;
- use of a variety of internationally small, standardized pocket terminals;
- availability to mobile users of a range of voice and non-voice services, including high-speed data and video and audio streaming;
- provision of these services over a wide range of user densities and coverage areas, from urban canyons to rural communities;
- efficient use of the radio spectrum consistent with providing service at acceptable cost; and
- an open architecture which will permit easy introduction of new applications and advances in technology.[9]

B. The Public Interest Benefit of Ubiquitous Mobile Service is Unique to MSS Providers

The MSS industry is capable of providing ubiquitous mobile telecommunications services to a degree that never will be matched by terrestrial-only mobile wireless networks. In fact, nongeostationary Big LEO and 2 GHz licensees are required by the Commission's rules to be capable of providing services to the entire United States and most of the rest of the world.[10] This capability causes MSS networks to be uniquely suited to provide service to the vast

[8] See Discussion of IMT-2000 on ITU website at http://www.itu.int/imt/what_is/imt/index.html ("ITU's IMT-2000 Website").

[9] ITU's IMT-2000 Website at http://www.itu.int/imt/what_is/3rdgen/.

[10] 47 C.F.R. § 25.143 (b)(2) (requiring that 2 GHz and Big LEO systems be capable of providing services "throughout the fifty states, Puerto Rico and the U.S. Virgin Islands" and to "all locations as far north as 70° latitude and as far south as 55° latitude").

expanses of rural America, and the industries,[11] citizens,[12] and government personnel[13] that work and live there, and to provide aeronautical and marine services.[14]

As a result, MSS networks, such as the 2 GHz network that the FCC licensed to MCHI, will provide an important component of third generation mobile services. According to the ITU:

> The IMT-2000 vision encompasses complementary satellite and terrestrial components. Close integration between the satellite and terrestrial components of IMT-2000 will facilitate the deployment of mobile services via satellite, enabling users to roam on satellite networks and to gain access to service where there is no terrestrial system in place.[15]

Most Americans live relatively close to each other in urban and suburban clusters that are efficiently served by terrestrial cellular networks. Vast expanses of the United States, however,

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[11] The industries that currently utilize satellite phones worldwide include the broadcast journalism, construction, timber and forestry, oil recovery and exploration, passenger and cargo transportation (by automobile, bus, truck, and train), and utility industries.

[12] It is unclear how many rural Americans are not adequately served by terrestrial service providers. The FCC's data collection methodology assumes that an entire county is adequately served if at least one terrestrial operator offers service in that county. Therefore, the FCC's data on wireless services does not take into account the numerous households that live outside of the service footprints of terrestrial providers serving rural counties, i.e., residents of rural counties that do not live in larger towns or along interstate highways within those counties. See In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Sixth Report, FCC 01-192, ¶ 29 (rel. July 17, 2001) (noting that "analysis overstates the total coverage in terms of both geographic areas and populations covered").

[13] Satellite phones currently are utilized by a variety of local, state, and federal governmental entities worldwide, including law enforcement and national security agencies, emergency management and rescue personnel, forestry and park services, public transportation fleets, the military, and border patrols. Most recently, there was a great deal of press coverage of the effectiveness of MSS services in aiding rescue workers when Lower Manhattan's local wireless and wireline infrastructure was destroyed in the September 11 terrorist attack. See, e.g., Satellite Phones Showcased In Crisis, SATELLITE NEWS, Sept. 17, 2001; Marty Katz, Hand-Held Satellite Telephones Resurface in Wake of Tragedy, N.Y. TIMES, Sept. 24, 2001; Attacks Give Satellite Telephones 'New Life', SATELLITE WEEK, Oct. 1, 2001.

[14] MSS providers offer data and voice communications to passengers and crew on aircraft and ships and are the only potential service providers to aircraft and ships crossing oceans.

[15] ITU's IMT-2000 Website at http://www.itu.int/imt/what_is/imt/index.html.

are not sufficiently densely populated to warrant the exorbitant sums that would be required to construct a cellular network with anything approaching ubiquitous coverage. As a result, vast stretches of rural areas and smaller pockets of suburban areas will continue to be unserved or underserved by cellular operators.[16] Further, being land-based, cellular networks simply are unable to provide certain aeronautical and marine services. By contrast, MSS networks, by their nature, provide ubiquitous service. The unique public interest benefits offered by MSS stem from this characteristic and the public interest benefits attributable to this characteristic were one of the Commission's primary considerations when it initially created the Big LEO and 2 GHz MSS spectrum allocations.[17]

These benefits also mandate the inclusion of MSS services in future, integrated IMT-2000 networks. According to the ITU:

> [IMT-2000] [s]ervices will be available in all situations in which a user may be found, indoor or outdoor, and ranging from dense urban situations—including high intensity office use—through suburban and rural areas to those situations found in remote areas. Land, maritime, and aeronautical situations are included so that the user in a vehicle, on a ship, or in an aircraft will have continuous availability of services.[18]

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[16] See, supra, note 12. As anyone who has traveled extensively by automobile in rural America knows, there are vast expanses of rural America that do not receive mobile service at all. An example of these large coverage gaps can be found on the websites of Sprint, Voicestream, and Cingular, each of which provides local coverage maps. Much of this unserved or underserved rural area will never obtain adequate terrestrial service due to the excessively large number of transmission cells, and the infrastructure necessary to support those cells, that would be required to provide such coverage.

[17] See Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, Notice of Proposed Rulemaking, 10 FCC Rcd 3230, ¶ 7 (1995) ("MSS can provide [mobile] communications in remote or rural areas not covered by terrestrially based mobile service, and can provide nationwide public safety coverage. . . . MSS could satisfy important requirements that cannot be economically satisfied by other means."); See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands, Report and Order, 9 FCC Rcd 5936 (1994) ("[T]he public interest would be served if [Big] LEO systems provided efficient and ubiquitous voice services to users throughout the United States").

[18] ITU's IMT-2000 Website at http://www.itu.int/imt/7_faqs.

As noted above, cellular operators are not able to provide ubiquitous nationwide coverage. In addition, experience has demonstrated that the low power of MSS systems at the Earth's surface hampers MSS reception in urban areas and indoors.[19] Thus, the ITU's vision for IMT-2000 cannot be realized by either a terrestrial or a satellite system operating independently. Third generation services will be provided by integrated satellite/terrestrial systems.

C. ATC Authority is the Type of Operational Flexibility That is Required to Facilitate the Development of Third Generation Networks in the United States

Grant of ATC authority will pave the way, from a regulatory perspective, for the development of third generation networks in the United States.[20] As explained above, IMT-2000 networks are comprised of integrated terrestrial and satellite components. Thus, authorizing licensees to provide both terrestrial and satellite services pursuant to a single spectrum license is a commonsense means of facilitating the introduction of IMT-2000 services in the United States. What may in the future appear surprising about the current proceeding is not that the Commission proposed satellite and terrestrial use of a spectrum assignment by a single licensee, but instead that the Commission's proposal generated such rancor from cellular operators.

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[19] See NPRM, ¶ 24; Ex Parte Letter from New ICO to Chairman Powell, at 5 (March 8, 2001); Application for Modification of Space Station Licenses filed by Mobile Satellite Ventures Subsidiary LLC, FCC File No. SAT-ASG-20010302-00017, Call Signs E980179, E9900133, at 12-13 (filed March 2, 2001).

[20] Due, in part, to their substantial commitments to their existing first generation analog and second generation digital terrestrial wireless networks, U.S. terrestrial licensees are not expected to introduce third generation services for several years. By contrast, NTT DoCoMo already is operating a third generation network in Japan and will offer such services in Europe in the near future. First 3G Mobiles Launched in Japan, BBC NEWS ONLINE, Oct. 1, 2001, available at http://news.bbc.co.uk/low/english/business/newsid_1572000/1572372.stm (chronicling launch of world's first 3G phone service and predicting that NTT NoCoMo will start 3G service in Europe "by the end of this year or early next year"); Ken Belson, NTT DoCoMo Introduces New Generation Cellphone Service, N.Y. TIMES, Oct. 1, 2001 (describing Japan's launch of the world's first third-generation cellular phone network and noting that "services, carriers in Europe and the United States are delaying or scaling back their plans").

Cellular operators have failed to see convergence as an opportunity to be exploited to improve their ability to offer services to the public. Instead, they continue to view ATC authority as a threat to be destroyed. Despite these views, in the not too distant future, licensing practices that provide for distinct regulatory treatment of terrestrial and satellite mobile services will be considered legacy regulation with the potential to hinder the technological advancement of a unified satellite/terrestrial mobile telecommunications industry.[21]

Grant of ATC authority is fully consistent with, and even dictated by, the Commission's policy to authorize licensees operational flexibility with respect to their assigned spectrum. In a variety of recent proceedings, the Commission has adopted regulations sufficiently flexible in their operational restrictions so as to enable licensees to make the most efficient use of their spectrum as dictated by market forces.[22] This principle clearly applies to the instant proceeding.

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[21] According to the ITU, "[i]t may be necessary to develop new regulatory environments for IMT 2000, which will enable the provision of new services in a variety of ways not anticipated by existing regulations." ITU's IMT-2000 Website at http://www.itu.int/imt/8_license/index.html. Moreover, the European Community ("EC") already has begun an effort to harmonize its telecommunication regulations both between countries and across industries. See European Commission Mulls Proposals to Boost Telecom Competition, COMMUNICATIONS DAILY, Nov. 12, 1999 (describing effort to "harmoniz[e]existing regulations so equivalent rules apply to all networks" so that "national telecom regulators would apply same licensing principles to all communications infrastructure and service"). For a more detailed explanation of the EC's policy, see Guidelines on the Application of EC Competition Rules in Telecommunications, available at http://europa.eu.int/ISPO/infosoc/legreg/docs/91c23302.html.

[22] The Commission has emphasized operational flexibility in a series of recent proceedings. See, e.g., Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems, First Report and Order and Memorandum Opinion and Order, ET Docket No. 00-258, RM-9911, FCC 01-256, ¶ 2 (rel. Sept. 24, 2001) (adding mobile allocation to ITFS/MMDS band in effort to rely on market forces rather than regulatory judgments about best use of band); See Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8965, ¶ 1 (1996) (offering "maximum flexibility" to CMRS providers in the use of their already allocated spectrum); Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, First Report and Order, 15 FCC Rcd 476, at ¶ 4 (2000) (emphasizing flexibility over rigid service restrictions to enable "the most efficient and intensive use" of

A grant of ATC authority will enable MSS licensees to develop and implement the system architecture that best serves market needs and most efficiently utilizes scarce spectrum. The FCC should allow licensees to make sound business decisions regarding the deployment of their licensed spectrum so long as additional interference does not result and competition is maintained.

ATC authority will enable terrestrial spectrum reuse, which will greatly expand the transmission capacity of MSS licensees' spectrum assignments. MSS licensees will be able to reuse the same spectrum channels terrestrially in every city nationwide, thereby ensuring the availability of sufficient spectrum in the locations which are likely to generate the densest use. In addition, ATC authority will greatly increase licensees' subscriber bases and thereby provide MSS's unique public interest benefit of ubiquitous service to many more people than otherwise would be possible. Compartmentalizing MSS licensees to satellite-only service would eliminate these efficiencies.[23] Further, ATC authority will assist MSS providers to obtain additional financing. As the Commission is aware,[24] it has been difficult for the MSS industry to attract

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spectrum allocated for new broadcast channel services); Application for Special Temporary Authority to Operate Satellite Digital Audio Radio Service Complementary Terrestrial Repeaters, DAs 01-2171, 01-2172, File Nos. SAT-STA-20010724-00064, SAT-STA-20010724-00063 (rel. Sept. 17, 2001) (granting STA to Sirius Satellite Radio Inc. and XM Radio Inc. to use terrestrial repeaters).

[23] ATC authority, of course, will be of little benefit to the MSS industry if the Commission assigns ATC rights to independent entities through competitive bidding. It is unlikely that independent ATC and MSS licensees, whose financial incentives will not be completely aligned, would cooperate and coordinate sufficiently to fully integrate their ATC and MSS satellite networks and obtain the resulting spectrum efficiencies. As a result, any MSS spectrum used by an ATC licensee effectively would represent a loss of spectrum to an MSS licensee without any corresponding benefit to the MSS licensee.

[24] The Commission has recognized the difficulty of raising capital in several recent orders. See Intelsat LLC Request for Extension of Time Under Section 621(5) of the ORBIT Act, Memorandum Opinion and Order, FCC 01-288, FCC File No. SAT-MSC-2001082200075 (rel. Oct. 5, 2001); Inmarsat Ventures Ltd. Request for Extension of Time Under Section 621(5) of the ORBIT Act, FCC 01-193, FCC File No. SAT-MSC-20000808-00119, (rel. June 28, 2000);

capital in light of the downturn in the economy and the financial difficulties of the first MSS providers to market.

Moreover, there is no reason not to grant ATC authority. No disadvantages would accompany the substantial public interest benefits described above. The Commission can promulgate appropriate rules to ensure that no adjacent or in-band licensees will be prejudiced by the provision of ATC services by MSS licensees. Also, grant of ATC authority will in no way reduce the public interest benefits provided by MSS licensees' satellite networks. MSS licensees will continue to provide ubiquitous MSS services. Thus, the public will not suffer any loss of service, but instead will gain the ability to receive services from MSS licensees indoors and in urban areas, environments that MSS licensees previously did not adequately serve.

In addition, the FCC should provide satellite licensees with the flexibility to aggregate their spectrum assignments for terrestrial and satellite use. The Commission should not place restrictions on the manner in which satellite and terrestrial mobile licensees share the use of their assigned spectrum. The Commission should allow the market to determine the optimal amount of spectrum needed by a licensee to provide third generation services and thus should not restrict consolidation as long as such consolidation does not pose competitive harm to the mobile market. In addition, the Commission should not limit the types of spectrum use arrangements that may be entered into between satellite and terrestrial providers. Once again, the market should be allowed to determine what types of arrangements will best serve the American public.

New Skies Satellites, N.V. Request for an Extension Under Section 623(l) of the ORBIT Act, Memorandum Opinion and Order, FCC 00-234, FCC File No.: SAT-MSC-20000526-0093¶¶ 8-10 (rel. June 30, 2000).

II. CONCLUSION

As fully set forth herein, the Commission expeditiously should grant ATC authority to MSS licensees. Doing so will provide the regulatory environment necessary to support the introduction of third generation mobile networks in the United States, a defining characteristic of which will be their integrated use of terrestrial and satellite components. In fact, cellular operators might well become encouraged to participate in the process. By providing MSS licensees the operational flexibility to develop market based system infrastructures, the Commission will be serving the public interest and enabling licensees to make the most efficient possible use of their assigned spectrum.

Respectfully Submitted,

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