July 16, 2002

**BY ELECTRONIC FILING**

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**EX PARTE PRESENTATION**

Re: Part 25 Streamlining Proceeding, IB Docket 00-248

Dear Ms. Dortch:

The undersigned companies respond to the *ex parte* filing made by Aloha Networks, Inc. ("Aloha Networks") on November 14, 2001 in this docket.[1] The Aloha Networks filing provides notice of a meeting held with Commission staff concerning proposed rules that would implement certain proposals Aloha Networks made in its initial comments in this proceeding. Specifically, Aloha Networks proposes additional regulation of VSAT network random access schemes. The Aloha Networks proposals advocate regulations that would impose drastic limitations on the vast majority of VSAT networks that use TDMA access schemes. Additionally, through these proposals, Aloha Networks seeks favorable regulation for its operationally unproven proprietary spread spectrum random access scheme based on flawed assumptions regarding the satellite industry, the VSAT industry, interference and the process for interference resolution.

**Additional Regulation is Unnecessary Because the Satellite Industry Can and Does Resolve Interference**

The regulations proposed by Aloha Networks are unnecessary because the existing regulations governing satellite interference provide an adequate means and procedure for resolving interference issues.[2] It is in the interest of both the satellite operators and VSAT network operators to minimize interference events and work together to resolve interference issues. Under the framework established by the existing regulations, all parties involved in the operation of satellite networks have devoted considerable resources to preventing interference events from occurring. The efficacy of the existing regulations is borne out by the fact that, to

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[1] *Ex parte* letter of Aloha Networks, IB Docket No. 00-248, dated November 14, 2001 ("Aloha Networks *ex parte*").

[2] *See* 47 C.F.R. 25.271, 47 C.F.R. 25.272; 46 C.F.R. 25.273, 47 C.F.R 25.274.

the belief of the undersigned, the Commission has never intervened to resolve VSAT network interference problems attributable to random access techniques. Aloha Networks fails to provide any specific evidence that supports its assertion that the VSAT industry is incapable of self-regulation. Moreover, Aloha Networks has not provided any evidence to show that the existing regulations will be inadequate in the future.

In its Supplemental Comments to the Proposed Revisions of the Satellite Industry Association,[3] the SIA urged the Commission not to adopt the proposals made by Aloha Networks. In its comments, the SIA noted that "there continues to be no demonstrable need to impose any regulation . . . to solve a problem that does not exist today and will not likely exist in the future."[4]

**Restrictive Regulation of Traditional TDMA Random Access Schemes Will Harm VSAT Growth**

Additional regulation of traditional TDMA random access schemes used by VSAT networks will have an adverse effect on VSAT industry growth. TDMA random access schemes are used by all major VSAT network operators in the United States.[5] A requirement that operators shift to a new, unproven standard will hinder the further development of the VSAT industry as operators are forced to adopt and familiarize themselves with a new access scheme. StarBand, Spacenet and Hughes would need to divert significant resources to the development of new products and processes that use the Aloha Networks standard. Such a diversion of resources would hamper the ability of all three companies to expand the scope of their VSAT network services. In the absence of any need for new regulations, the Commission should refrain from taking any action that would hinder the ability of the industry to grow.

**The Commission Should Not Mandate the Use of Technology of a Specific Company**

The Commission has historically refrained from mandating the use of a specific technology. In this instance, Aloha Networks is proposing that the Commission adopt a specific technology that is also the technology of a specific company. Aloha Networks' recommendations mandate the use of the Aloha Networks technology because Aloha Networks' spread spectrum access scheme is the only technology that practically satisfies these recommendations. As a result, the Aloha Networks product would become the de facto random

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[3] Supplemental Comments to the Proposed Revisions of the Satellite Industry Association, Part 25 Streamlining Proceeding, IB Docket 00-248, filed December 11, 2001 (the "SIA Supplemental Comments").

[4] SIA Supplemental Comments at 11.

[5] Hughes Network Systems implements its networks with internally manufactured baseband equipment, while StarBand and Spacenet use baseband equipment from Gilat Satellite Networks. Both Hughes Network Systems and Gilat Satellite Networks products use TDMA random access schemes and account for 98.9% of VSAT systems according to the *Comsys VSAT Market Report – 2000*, page 12.

access scheme standard for the VSAT industry through regulation rather than market competition. To date, the Aloha Networks proposed standard has yet to gain product acceptance in the marketplace, evidence that the product does not provide a superior technological advantage. Aloha Networks has failed to provide any evidence to support its position that a problem exists. Moreover, Aloha Networks has failed to show that its proposed standard would be the appropriate solution to its theoretical problem. Thus, the Commission should refrain from taking this anti-competitive action.

**The Satellite Industry Does Not Support the Aloha Networks Proposal**

Aloha Networks stands alone in the industry in attempting to impose restrictive regulation on traditional VSAT network random access schemes. As Hughes,[6] StarBand and Spacenet[7] noted in their reply comments, all satellite and earth station operators that filed comments on the random access scheme issue in this proceeding opposed the proposed power reduction regulations for random access networks. No other filed comments or reply comments supported Aloha Networks' proposals. In the face of overwhelming industry opposition to the imposition of an Aloha Networks-proprietary standard, the Commission should allow the industry to continue to make its own choices regarding access schemes.

**The Available Evidence Does Not Support the Aloha Networks Proposal and the Commission Should Not Act on the Basis of Aloha Networks' Unproven Assumptions**

Hughes, StarBand and Spacenet have presented technical proposals and extensive supporting analysis showing that the current TDMA random access schemes will not cause unacceptable levels of interference.[8] The Hughes and StarBand/Spacenet theoretical analyses are supported by the real world successful performance of TDMA random access networks for the more than one hundred thousand VSATs installed over many years. Furthermore, the industry is unaware of any interference problem attributable to the use of random access techniques.

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6 Joint Reply Comments of Hughes Network Systems, Hughes Communications, Inc. and Hughes Communications Galaxy, Inc., IB Docket No. 00-248, dated May 7, 2001, at 13-16.

7 Reply Comments of Spacenet Inc. and StarBand Communications Inc., IB Docket No. 00-248, dated May 7, 2001, at 16-19.

8 Joint Comments of Hughes Network Systems, Hughes Communications, Inc. and Hughes Communications Galaxy, Inc., IB Docket No. 00-248, dated March 26, 2001, at 18-24. Comments of Spacenet Inc. and StarBand Communications Inc., IB Docket No. 00-248, dated March 26, 2001, at 37-41. *See* petition and filed comments associated with "Spacenet Petition", RM-9864, Petition of Spacenet, Inc. For a Declaratory Ruling that Section 25.134 of the Commission's Rules Permit VSAT Remote Stations in the Fixed Satellite Service to Use Network Access Schemes that Allow Statistically Infrequent Overlapping Transmissions of Short Duration; or, In the Alternative For Rule Making to Amend That Section.

In contrast, Aloha Networks presents no concrete evidence to support its claims. Instead, Aloha Networks relies on a series of unproven assumptions that do not support its flawed conclusion. For example, Aloha Networks claims that "Internet use will drive increased use of existing and new random access techniques."[9] Aloha Networks then assumes, without evidence, that the increased use of these techniques will lead to interference to adjacent satellites. The Aloha Networks proposals are based on highly debatable and unsupported theoretical claims. Thus, the Commission should not implement these unsubstantiated and unnecessary proposals.

**The Aloha Networks Grandfathering Proposal is Unacceptable Because it is Unlikely that VSAT Operators will Use More Than One Access Scheme**

Aloha Networks' proposal to grandfather existing VSAT operations is not acceptable because it does not extend grandfathering to new licenses, new equipment that does not reflect prior investment or the addition of a significant number of new users. Hughes, StarBand and Spacenet currently operate large VSAT networks and expect to add significant numbers of users to these networks in the future. It would not be commercially viable for Hughes, StarBand and Spacenet to operate their networks using two different access schemes. As a result, the Aloha Networks proposal would require all three companies to undertake the costly effort of retrofitting their existing networks to accommodate the new Aloha Networks access scheme. Thus, the Aloha Networks grandfathering proposal fails to provide any protection or consideration for existing VSAT networks.

The Aloha Networks proposals on regulation of VSAT network random access schemes are harmful to the satellite industry. There is no basis in operation for these proposed regulations. Moreover, adoption of the Aloha Networks proposals would hinder the deployment of satellite based services. In sum, additional regulation of the satellite industry is not necessary, would be burdensome to deployment, would impose unnecessary costs on end-users, and is not consistent with Commission policy.[10]

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[9] Aloha Networks *ex parte*.

[10] Satellite News (http://www.satnews.com/stories2/5oct2001-2.html) October 5, 2001, Digital Broadband Migration is Essential For Nation's Survival, Says FCC's Powell. Excerpt: FCC, Powell said, has been taking a proactive approach to broadband deployment. But he said it should be the consumers who determine how the broadband landscape would play out. But he promised that FCC "should guard against regulatory excess."

Respectfully submitted,

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