

January 8, 2002

Via Electronic Filing and Hand Delivery

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

**Re: Mobile Satellite Ventures Subsidiary LLC
Ex Parte Presentation
IB Docket No. 01-185
File No. SAT-ASG-20010302-00017 et al.**

Dear Ms. Dortch:

Mobile Satellite Ventures hereby responds to Inmarsat's recent ex parte filing opposing the adoption of spectrum flexibility rules that might give MSV the same rights as other MSS licensees to operate ancillary terrestrial facilities. *See Inmarsat ex parte*, IB Docket No. 01-185 et al. (December 20, 2002).

MSV is not seeking any special treatment in the MSS Spectrum Flexibility rulemaking. MSV is seeking only to have the same right as other MSS licensees, to operate ancillary terrestrial facilities under the same rules and restrictions the Commission adopts in the above-referenced rulemaking. To the extent that other MSS licensees are permitted to offer dual-mode handsets as a set of components, MSV simply seeks the same right. Similarly, if other MSS licensees with operational systems are permitted to operate ancillary terrestrial facilities using their current satellite systems, MSV seeks that same right.

Inmarsat assumes without any basis that MSV would deploy its ancillary terrestrial facilities in some materially different way if it does so in connection with its current satellite system rather than its next-generation system. This is a red herring; there would be no difference in the deployment, except that the ancillary terrestrial component necessarily will be less extensive than what MSV proposed in connection with its next-generation system. MSV anticipates launching its next-generation system as soon as possible after receiving authority and seeks to operate ancillary terrestrial facilities in the interim, to the extent others are permitted to do so with their existing satellite systems, largely as a way of proving the concept and accelerating the deployment of a mature next-generation system. The public will be the beneficiary of this accelerated service.

MSV has demonstrated comprehensively that its ancillary terrestrial operations will not cause interference to Inmarsat. That analysis was submitted using the worst-case (from an interference perspective) of full deployment of thousands of ancillary terrestrial base stations

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operating with millions of users. Any ancillary terrestrial facilities that are deployed in connection with the current satellite system will necessarily be less extensive than this fully mature deployment and have far fewer users. As such, it will have even less potential for causing interference to Inmarsat. Moreover, to the extent that the Commission mandates that MSV monitor terrestrial emissions it is capable of establishing such a monitoring capability in connection with the operation of either its current satellite system or its next-generation satellite system. The monitoring is established using ground facilities that can be connected to either system.

Inmarsat makes a desperate claim that it had inadequate notice that the rulemaking might permit MSV to operate ancillary terrestrial facilities in connection with its current satellite system. This is absurd, since the rulemaking from the start has been broadly considering giving MSS licensees discretion to operate ancillary terrestrial facilities without regard to whether the facilities were operated in connection with their first or second generation satellites. *See, e.g., NPRM*, paras. 77-78 (describing potential service rules). If Inmarsat misunderstood the scope of the rulemaking, that is Inmarsat's fault and not MSV's or the Commission's. Once begun, the rulemaking effectively superceded at least the ancillary terrestrial element of MSV's application. *NPRM*, para. 18. Moreover, as noted above, there was no further interference analysis that Inmarsat might have submitted, since the ancillary terrestrial operations operated in connection with the current satellite system will be at least as benign as those in the worst-case analysis that is on the record. In any case, Inmarsat presumably will have an opportunity to file specific technical objections to whatever ancillary operations proposes after the Commission adopts its rules and all interested licensees submit whatever further showings are required. *See, e.g., NPRM*, para. 50. Again, MSV is not seeking to be treated any differently in the rulemaking than other MSS licensees, none of which is being attacked for not filing any applications (let alone amendments to applications) in connection with the rulemaking.

Inmarsat, which apparently yearns for the days when it was a monopoly provider of Mobile Satellite Service (and continues to defy the Congressional mandate that it complete the transition to a publicly-owned company), has been a persistent opponent of permitting MSV to improve the quality of its service, despite the overwhelming evidence that such improvement will benefit the public and not cause any harmful interference to Inmarsat. MSV urges the Commission, as it finalizes the rules for MSS spectrum flexibility, to hold the line against Inmarsat's anticompetitive efforts and give MSV and other MSS licensees the flexibility to offer the best possible service to the public.

Please direct any questions regarding this matter to the undersigned.

Very truly yours,



Lon C. Levin
Vice President

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cc: Chairman Michael K. Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein
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