

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Spectrum Policy Task Force Report) ET Docket No. 02-135
)

To: The Commission

REPLY COMMENTS OF LOCKHEED MARTIN CORPORATION

Lockheed Martin Corporation (“Lockheed Martin”)¹ hereby submits its Reply Comments in response to the Commission’s November 25, 2002 Public Notice seeking comment on the Spectrum Policy Task Force Report (*Task Force Report or Report*).²

As a general matter, Lockheed Martin agrees with the majority of commenters who emphasized that domestic U.S. spectrum management and related policy decisions cannot be made in a vacuum; rather, such decisions need to take into account the international spectrum allocation table in order to maintain existing and obtain, where possible, new harmonized international spectrum allocations. While offering a range of benefits for all spectrum-based service providers and manufacturers, international spectrum harmonization is far more than a benefit to the satellite industry.³ It is critical to the overall viability of the international and global satellite industry, as well as to its unique strengths of providing universal global access to connectivity on a distance insensitive basis. Although the

¹ Lockheed Martin is participating in this proceeding (the corporation filed comments January 27, 2003) as a global enterprise principally engaged in the research, design, development, manufacture, and integration of advanced-technology systems, products, and services for both commercial and government customers worldwide.

² Public Notice, Commission Seeks Public Comment on Spectrum Policy *Task Force Report*, ET Docket 02-135, FCC 02-322 (Nov. 25, 2002).

³ The *Report* itself concludes that international harmonization can “have significant advantages both in terms of truly ubiquitous services and economies of scale.” *Report* at 42.

Report recognizes that “spectrum used for satellite services typically requires extensive international and global coordination under the International Telecommunication Union [(ITU)] Radio Regulations . . .,” the *Report* does not discuss the significant interdependency between the timing of Commission spectrum allocation proceedings and the U.S. satellite industry’s ability to meet its international treaty-based obligations (as discussed further below).⁴

In its comments, the Satellite Industry Association (SIA) questioned the Task Force’s failure to consider how “future satellite services must straddle domestic and international regulatory regimes.”⁵ Lockheed Martin generally agrees with SIA that the Commission needs “to more formally and systematically incorporate consideration of international regulatory processes in its development of spectrum management policies.”⁶

In particular, Lockheed Martin wishes to emphasize the importance of timely domestic implementation of ITU World Radiocommunication Conference (WRC) spectrum allocation decisions. Unfortunately, there has historically been a significant gap (*i.e.*, years) between the WRC’s adoption of international spectrum allocations and the FCC’s implementation of same.⁷ This lag deprives the U.S. satellite industry, as well as U.S. consumers, of the timely availability and associated benefits of new, advanced services and technologies. While this delay disserves consumers as well as the wireless and satellite industries, timely domestic implementation of international spectrum allocations is uniquely

⁴ *Id.*

⁵ Comments of the Satellite Industry Association (SIA) at 20 (filed Jan. 27, 2003).

⁶ *Id.* at 21.

⁷ For example, the proceeding implementing decisions from WRC-00 was not initiated until the fall of 2002, more than two years after the conclusion of the WRC-00 – despite long-standing requests from both industry and government for the Commission to initiate such a proceeding. Optimistically, the proceeding may be concluded just prior to the next WRC – in June ’03 – which is a full three years after the decisions were adopted internationally. *See Amendment of Parts 2, 25, and 87 of the Commission’s Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Between 28 MHz and 36 GHz and to Otherwise Update the Rules in this Frequency Range; Amendment of Parts 2 and 25 of the Commission’s Rules to Allocate Spectrum for* (continued on next page)

critical to the satellite industry because of the international treaty obligations to which U.S. satellite companies are subject. Several commenters have already called the Commission's attention to the importance of taking U.S. treaty obligations into consideration regarding domestic spectrum policy decisions.⁸ Lockheed Martin believes that any spectrum management reform must recognize that the Commission's timing on domestic implementation of international spectrum allocations and the U.S. satellite industry's ability to meet treaty obligations (*i.e.*, to bring a satellite into use within 5 years of the ITU filing) are integrally linked. Regulatory delays in even initiating relevant domestic implementation proceedings impose significant business risks for the U.S. satellite industry and delay the opportunity for rollout of new advanced services and technology to consumers.

As the Commission is well aware, once an international satellite allocation is adopted and becomes effective at the ITU, U.S. and foreign satellite operators, through their respective national Administrations, proceed quickly to submit ITU filings, in which, *inter alia*, the requisite orbital resources are specified. The ITU imposes on satellite operators a 5-year timeframe within which to bring a satellite into use or risk losing any rights to the specified frequencies and/or orbital locations.⁹ The ability of U.S. satellite operators to construct, launch, and deploy satellites within this timeframe is, in part, dependent upon the Commission's timely implementation of the WRC allocation decisions – within a year of the WRC ending. Commission delays in implementing international allocations do not toll or extend the ITU deadlines. This leaves U.S. satellite operators in regulatory limbo, causing a processing backlog for the Commission and harmful regulatory uncertainty for the industry. Missing

Government and Non-Government Use in the Radionavigation-Satellite Service, Notice of Proposed Rulemaking, 17 FCC Rcd 19756 (2002).

⁸ *See, e.g.*, Comments of PanAmSat Corporation at 2 (filed Jan. 27, 2003) (“As it considers changes to its spectrum policies, the FCC should be aware of the leadership role that it occupies and should reinforce its commitment to a satellite spectrum management model that stresses the global use of satellite spectrum, with its attendant treaty and ITU obligations.”).

⁹ While there is a possibility for a 2-year extension, it is not automatic and must be justified by the national Administration.

the ITU deadline typically means losing the orbital resource. While a satellite operator could request the U.S. to refile for the lost orbital resources, this approach is both costly and risk-intensive. First, the ITU imposes cost recovery for each and every system filing. Second, and more importantly, filings from other national Administrations made subsequent to the dates of U.S. filings would have priority, thereby reducing the technical and economical viability of the orbital resources initially available to the U.S. operator.

Lockheed Martin suggests that the Commission, in its consideration of ways to improve its spectrum management, adopt a policy whereby proceedings to implement WRC spectrum allocation decisions are initiated within 4 months of the close of each WRC and are concluded within a year.¹⁰ As the Commission knows, the WRC occurs generally every three years, providing a relatively predictable schedule for anticipating staffing needs and establishing procedures so that staff can routinely commence the relevant implementation proceedings on an expedited basis. Such a policy would be consistent with the approach the Commission has taken, for example, to process Section 271 applications (the Commission committed to issuing decisions on Bell operating company applications to provide interLATA service in any in-region state within 90 days¹¹) and to review and act on applications seeking approval for transactions (the Commission committed to issuing decisions on applications seeking approval for transfers/assignments within 180-days¹²).

¹⁰ The pending Space Station Licensing Reform proceeding would be a timely and appropriate vehicle for the Commission to articulate such a policy. *See Amendment of the Commission's Space Station Licensing Rules and Policies; 2000 Biennial Regulatory Review – Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations*, Notice of Proposed Rulemaking and First Report and Order, 17 FCC Rcd 3847 (2002).

¹¹ *See* 47 U.S.C. § 271(d)(3).

¹² *See* <http://www.fcc.gov/transaction/timeline.html>.

CONCLUSION

For the foregoing reasons, Lockheed Martin urges the Commission to adopt a policy whereby proceedings for implementation of WRC spectrum allocation decisions are initiated within 4 months and concluded with 12 months of the close of each WRC. So doing will bring the benefits of predictability, efficiency, and greater certainty to both industry and consumers as soon as possible.

Respectfully submitted,

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February 28, 2003