



Federal Communications Commission
Washington, D.C. 20554

DA 09-2481

November 24, 2009

John P. Janka, Esq.
Latham & Watkins LLP
555 Eleventh Street
10th Floor
Washington, D.C. 20004

Re: ViaSat, Inc., Application to Modify Authorization to
Add Ka-band NGSO FSS Frequencies to VIASAT-
KA1 at 77.3° W.L., IBFS File No. SAT-MOD-
20090819-00090 (Call Sign: S2737)

Dear Mr. Janka:

On August 19, 2009, ViaSat, Inc. (ViaSat) filed the above-captioned application to modify its authorization for the VIASAT-77 geostationary-orbit (GSO) satellite (Call Sign S2737).¹ ViaSat is authorized to construct, launch, and operate VIASAT-77 at the 77.3° W.L. orbital location in the 18.3-18.8 GHz, 19.7-20.2 GHz, 28.35-28.6 GHz, and 29.25-30.0 GHz frequency bands. In its modification application, ViaSat seeks authority to add the Ka-band frequencies in the 18.8-19.3 GHz and 28.6-29.1 GHz frequency bands to its authorization and to operate in these frequencies on a non-interference basis.² These frequencies are allocated to the non-geostationary orbit (NGSO) fixed-satellite service (FSS) ("NGSO FSS frequency bands"). For the reasons discussed below, we dismiss the modification application without prejudice to refiling.

Section 25.112 of the Commission's rules requires the Commission to return, as unacceptable for filing, any space station application that is not substantially complete, contains internal inconsistencies, or does not substantially comply with the Commission's rules.³ In its filing, ViaSat attached a set of link budget analyses to its Schedule S form, but did not include analyses for the NGSO FSS frequency bands requested in its modification application.⁴ ViaSat also conducted its interference analysis based on link budget information provided in a prior application, which did not include the requested NGSO FSS frequency bands.⁵ Consequently, we dismiss ViaSat's modification application as defective. We request ViaSat provide, in any refiling, the required link budget information as attachments in Schedule S (Table S13,

¹ ViaSat's authorization was grant stamped with conditions on July 18, 2007. *See* ViaSat, Inc., IBFS File No. SAT-LOA-20070314-00051. On November 18, 2009, ViaSat, Inc. notified the Commission that it had changed the satellite's name from ViaSat-KA1 to ViaSat-77. Letter to Marlene H. Dortch, Secretary, FCC, from Elizabeth R. Park, Counsel for ViaSat, Inc. (November 18, 2009).

² *See* SAT-MOD-20090819-00090, Exhibit A.

³ 47 C.F.R. § 25.112.

⁴ SAT-MOD-20090819-00090, Schedule S, Table S13, Column (g).

⁵ SAT-MOD-20090819-00090, Supplemental Technical Annex, Section A.6.1 on Page 6. *See also* SAT-MOD-20080718-00144.

Column (g)) and the associated interference analysis in the narrative and/or supplemental technical annex of the application.

In addition, Section 25.114(c)(13) of the Commission's rules requires applicants to provide the polarization information specified in Section 25.210, as applicable, to verify that the proposed space station is designed to provide a cross-polarization isolation value of 30 dB.⁶ ViaSat's application shows that the ratio of the on axis co-polar gain to the cross polar gain of the antenna in the requested frequency bands is 26 dB within its primary coverage area.⁷ Because ViaSat's application does not conform to the Commission's rules and ViaSat did not request a waiver of Section 25.114(c)(13), its application is also dismissed on this ground. If ViaSat elects to refile its application, it should propose to operate with conforming cross-polarization isolation, or it should request a waiver of Section 25.114(c)(13) and provide the appropriate justification for its grant.⁸

We also note that ViaSat's application states that "[u]plink transmissions from the blanket-licensed terminals will be restricted to the 28.35-29.1 GHz and 29.5-30 GHz bands."⁹ Section 25.138 of the Commission's rules, does not list the 28.6-29.1 GHz frequency band as being available for blanket licensing.¹⁰ We request ViaSat to clarify, in any refiling, its system design requirements within the 28.6-29.1 GHz frequency bands with regard to blanket licensing.

Accordingly, pursuant to Section 25.112(a)(1) of the Commission's rules, 47 C.F.R. § 25.112(a)(1), and Section 0.261 of the Commission's rules on delegated authority, 47 C.F.R. § 0.261, we dismiss the modification application of ViaSat, Inc. without prejudice to refiling.

Sincerely,

Fern J. Jarmulnek
Deputy Chief, Satellite Division
International Bureau

⁶ 47 C.F.R. § 25.114(c)(13).

⁷ 47 C.F.R. § 25.210(i)(1).

⁸ If ViaSat refiles an application identical to the one dismissed, with the exception of supplying the corrected information, it need not pay an application fee. *See* 47 C.F.R. § 1.1111(d).

⁹ *See* SAT-MOD-20090819-00090, Supplemental Technical Annex, Section A.2 on Page 2.

¹⁰ 47 C.F.R. § 25.138.