



Federal Communications Commission
Washington, D.C. 20554

DA 13-440

March 14, 2013

John P. Janka, Esq.
Latham & Watkins LLP
555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004

Re: ViaSat, Inc.
IBFS File No. SAT-LOI-20121226-00225
Call Sign: S2891

Dear Mr. Janka:

On December 26, 2012, ViaSat, Inc. ("ViaSat") filed a Letter of Intent seeking to use the planned ViaSat-2 space station that will operate under the authority of the United Kingdom to access the United States using the 18.3-19.3 GHz (space-to-Earth), 19.7-20.2 GHz (space-to-Earth), 28.1-29.1 GHz (Earth-to-space), and 29.5-30.0 GHz (Earth-to-space) frequency bands at the 69.9° W.L. orbital location. For the reason set forth below, we dismiss ViaSat's application, without prejudice to refile.

Section 25.112 of the Commission's rules, 47 C.F.R. § 25.112, 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 or other requirements. In a 2004 Public Notice, the International Bureau provided a list of orbital locations that are not available for commercial space station operations in the United States in the 17.8-20.2 GHz frequency band (Ka-band) because the Federal Government has authorized a Ka-band satellite to operate at that location.¹ The Public Notice further states that orbital locations that are less than two degrees away from a location listed as "unavailable" are also unavailable for U.S. operations.² The Public Notice lists the 69° W.L. orbital location as unavailable.

As a result, the 69.9° W.L. orbital location from which ViaSat seeks to serve the U.S. market is not available for Ka-band commercial operations in the United States. Consequently, ViaSat's request for U.S. market access from a Ka-band satellite located at the 69.9° W.L. orbital location does not comply with the Commission's requirements and we therefore dismiss it.

In addition, although not a ground for dismissal, we note that Section 25.137(c) of the Commission's rules requires operators of non-U.S.-licensed geostationary orbit (GSO)-like satellite systems seeking market access to demonstrate that the satellite is in-orbit and operating, or that the system

¹ *Public Notice*, Ka-Band Licenses Surrendered: Current List of Orbital Locations Not Available for Licensing in Portions of the Ka-Band, Report No. SPB-208 (Jul. 23, 2004).

² *Id.*

has a license from another administration, or that the system has been submitted for coordination to the International Telecommunication Union (ITU). In its application, ViaSat states that the ViaSat-2 space station will operate under the “authority of the government of the United Kingdom,” and that the “satellite’s authorization from the United Kingdom is held by ViaSat Satellite Holding, Ltd.,” a subsidiary of ViaSat.³ ViaSat does not provide specific information with respect to the authorization held by ViaSat’s subsidiary, nor does it indicate whether the United Kingdom has submitted filings on its behalf to the ITU. If ViaSat files another request for U.S. market access from ViaSat-2, it should address in greater detail the status of its U.K. authorization. In particular, ViaSat should indicate whether it has obtained launch and space operations licenses for the ViaSat-2 satellite under the U.K. Outer Space Act. If not, ViaSat should provide a statement detailing the status of the application process for such licenses and an assessment of whether, by virtue of its wholly owned subsidiary and any other factors considered relevant under the U.K. Outer Space Act, it has sufficient ties to the United Kingdom to provide the basis for issuing such authorizations. In providing this assessment, ViaSat should identify the specific provisions of the U.K. Outer Space Act and the Space Agency’s implementing guidance on which it is relying. ViaSat should also indicate whether filings have been submitted to the ITU on its behalf and provide confirming documentation of any such filings.

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 delegations of authority, 47 C.F.R. § 0.261, we dismiss ViaSat’s Letter of Intent without prejudice to refiling.

Sincerely,

Fern J. Jarmulnek
Acting Chief, Satellite Division
International Bureau

³ ViaSat, Inc. Letter of Intent, IBFS File No. SAT-LOI-20121226-00225, Exh. A at 3, 8.