



Federal Communications Commission  
Washington, D.C. 20554

September 5, 1996

DA- 96-1493

Mark A. Grannis, Esq.  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306

Re: Application of Teledesic Corporation, etc., File  
Nos. 22-DSS-PL/A-94, 43-SAT-AMEND-95, and  
127-SAT-AMEND-95

Dear Mr. Grannis:

Thank you for your letter of August 20, 1996, regarding the effective date provisions of the congressional review provisions of the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), *codified at* 5 U.S.C. §§ 801-808 ("the Act"), and Teledesic Corporation's application for a license to construct, launch, and operate a broadband global satellite system in the 28 GHz band. Your letter is based on an apparent misunderstanding on your part about the advice that the Office of General Counsel ("OGC") has provided concerning the effective date provisions of the Act. Moreover, I believe you have misconstrued these provisions of the Act.

The Act requires the submission of a report to both Houses of Congress and the General Accounting Office before a rule can take effect. 5 U.S.C. § 801(a). Generally, a major rule may not go into effect until the later of 60 calendar days after Congress receives the report or publication of the rule in the Federal Register. 5 U.S.C. § 801(a)(3). The Act provides very limited circumstances in which a major rule can go into effect in less than 60 days. 5 U.S.C. §§ 801(c) (issuance of an Executive Order) and 808(2) (rule adopted on a finding that notice and comment "impracticable, unnecessary, or contrary to the public interest"). A non-major rule may go into effect at any time after submission of the report to Congress (consistent with the requirements of the Administrative Procedure Act). 5 U.S.C. § 801(a). If Congress wishes to overturn a rule, a joint resolution of disapproval must be introduced in either House of Congress within 60 session or legislative days of the filing of the report to Congress. 5 U.S.C. §§ 801(d)(1) and 802(a). However, if less than 60 session or legislative days remain in a session of Congress, the period for congressional review runs from the 15th session or legislative day after the succeeding session of Congress convenes. 5 U.S.C. § 801(d)(2). If a joint resolution of disapproval of a rule is passed by both Houses

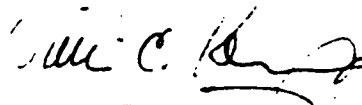
of Congress and signed by the President pursuant to 5 U.S.C. § 802 "the rule is made of no force and effect" and "shall be treated as though such rule had never taken effect." 5 U.S.C. § 801(f).

Contrary to the suggestion in your letter, the filing of a joint resolution of disapproval does not delay the effective date of a rule. Although the legislative history of the Act indicates that Congress would prefer to consider a joint resolution of disapproval before a rule goes into effect, the only statutory requirement is that a major rule not go into effect for 60 days.

The 28 GHz Band Plan<sup>1</sup> has been determined by the Office of Management and Budget ("OMB") to be a major rule under the Act, and thus cannot go into effect in less than 60 days. Notice was published in the Federal Register on August 28, 1996, and the report to Congress was filed on the same day. The rule will go into effect on October 28, 1996, not, as you suggest in your letter, sometime after March 1997. Similarly, any other major rules adopted by the Commission will go into effect 60 calendar days after the latter of publication of the rule in the Federal Register or receipt of the report to Congress, and will not be delayed as you fear.

Finally, because the Teledesic license application is a restricted proceeding, I must decline your request to meet with you ex parte to discuss your request regarding action on your application and its relationship to the effective date provisions of the Act. A copy of this letter will be placed in the above-referenced public file. In lieu of service, the letter will be publicly released.

Sincerely,



William E. Kennard  
General Counsel

---

<sup>1</sup> Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band, to Reallocate the 29.5 - 30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service, and for Fixed Satellite Service, *First Report and Order and Fourth Notice of Proposed Rulemaking*, FCC 96-311 (rel. July 22, 1996).