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September 4, 2009

Chairman Julius Genachowski
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

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Satellite
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Re: Satellite Industry and the FCC's International Bureau

Dear Chairman Genachowski:

It was my pleasure to sit down with you prior to the August district work period to discuss matters pertinent to the Federal Communications Commission (Commission) and I appreciate the open communication with your office since that time. I look forward to continuing our working relationship and will be following the important work of the Commission closely.

As you probably agree, a key goal of the Commission should be that the agency acts quickly, consistently, and flexibly so as not to unnecessarily impede the ability of the industries it regulates to serve the end-user – the American citizen. In this regard, it has come to my attention that the Commission's International Bureau ("Bureau") may not be achieving these goals in such a way all of the time. Below, I would like to identify for you some of the concerns I have heard from members of the satellite industry.

First and foremost, industry constituents have noted that the Bureau's processing time for routine applications and requests for authority are lengthy and apparently trending towards greater lengths of time. Specifically, I note the following concerns that have been expressed to my office:

- 1) The time between filing and Public Notice (which starts the statutory 30-day public review period) has been increasing. Indeed, we are aware that satellite applications (both for new satellites and for modifications of existing satellite licenses) regularly are not placed on Public Notice for, in some cases, 2 to 4 months.
- 2) Post-Public Notice processing times can take months, even in cases where no opposition/petition to deny has been filed.

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3) A great deal of information is required in satellite license applications, some of which is redundant or unnecessary for determining whether granting of the application is in the public interest. By way of example, applicants are currently required to provide the "reliability of the space station and the basis for that estimate." Because the Commission does not require a certain level of reliability, the provision of such information is not relevant to the Bureau's review of that application. (For instance, .1 degree moves.)

These satellite application difficulties result in a lack of action by the Commission and, in my opinion, are in some cases unnecessary. Indeed, in its 2008 Annual Report, the Bureau noted that the average processing time for a satellite application in 2005-2008 was 227 days. During this period, licensees cannot, for example, quickly move a satellite in order to satisfy demand except by seeking special temporary authority, which results in additional paperwork being filed; further burdening the Bureau's already limited staff resources. In an industry such as the satellite communications industry, which is global in nature and where U.S. licensees face incredible competition from operators licensed by other countries, the Commission's delay can tilt the playing field to the disadvantage of U.S. licensees. I think you would agree that this is an unacceptable result - especially in the current economic climate.


Secondly, industry officials have informed me that the Bureau frequently applies unwritten policies and procedures in an inconsistent manner, making regulatory certainty elusive and further adding to the delays in obtaining regulatory approval. For example, I have heard that the Bureau's policies and procedures for a U.S.-licensed satellite to be re-flagged to a different licensing administration has changed over time, such that past decisions with respect to this issue cannot be relied upon as standing precedent by industry. In addition, I am aware that waiver requests are suddenly required by the Bureau despite never being required previously, and then subsequently are not acted upon, leaving future applicants unsure about the continued need to file such waivers. This type of regulatory guessing game hinders the ability of our U.S.-licensed operators to quickly and efficiently respond to demand, which I find troubling.

Finally, I understand that industry desires that the Bureau exhibit more flexibility with respect to the application of its rules. I also believe that there are good reasons why the Bureau has put in place certain procedures. However, I believe that the Commission should strive to find the most efficient way to meet industry's concerns while serving the American public. This has not always been the case even though actions and procedures may have been well-intentioned. For example, the fleet management procedures originally put in place to allow for streamlined license modifications, and thus faster redeployment, are so narrowly interpreted by the Bureau that a move of a satellite a mere .1 degree from its currently licensed location is deemed ineligible for such streamlined

procedures. This does not seem logical given the frequent need to move a satellite slightly in order to address coordination or co-location issues.

In conclusion, I hope that as you review the operations of the Commission in an effort to create an agency that, as you put it, works "effectively and efficiently for the American people," you will address the issues identified herein. Again, it was my pleasure to discuss matters related to the Commission and I look forward to working with you in the future. If there is anything I, or my Office can do for you please feel free to contact me directly or my Legislative Counsel, Paul Cancienne, at (202) 225-5330.

Sincerely,



MARY BONO MACK
Member of Congress

MBM/pjc