STATEMENT OF
COMMISSIONER AJIT PAI, DISSENTING

Re: *Intelsat License LLC f/k/a Intelsat North America, LLC*, File No. EB-11-IH-1376; NAL/Acct. No. 201432080001; FRN 0009308008.

In cases other than those involving a broadcast licensee, Section 503(b)(6)(B) of the Communications Act provides that "[n]o forfeiture penalty shall be determined or imposed . . . if the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability." Here, the Commission alleges that Intelsat violated Section 25.158(c) of our rules by taking action to "transfer, assign, or otherwise permit ViaSat to assume its place in the GSO-like satellite licensing queue in apparent violation of the Rules." Any such action, however, took place no later than March 2, 2010, when Intelsat amended its application for the Galaxy KA satellite, thus moving ViaSat to the head of the queue. Accordingly, since more than one year has elapsed since that date, I do not believe that the Commission may impose a forfeiture penalty consistent with Section 503(b)(6)(B) for this alleged violation of our rules.

To be sure, the Notice of Apparent Liability claims that Intelsat's alleged violation of our rules continued until ViaSat took action that restored Intelsat's position at the head of the queue, thus curing the alleged violation. But this stretches the concept of a continuing violation past the breaking point. For example, under this theory, the statute of limitations for theft would begin to run not when an item is stolen or even when it is discovered that an item has been stolen, but rather when that item is returned to its rightful owner. Needless to say, that is not the law and neither do I believe that a court would find our reasoning in today's item to be persuasive.

Because I believe that the statute of limitations has expired, I need not reach the question of whether Intelsat actually violated Section 25.158(c). I will simply note that I am skeptical of the Commission's conclusion on that score.