



November 11, 2003

The Honorable John McCain  
Chairman  
Committee on Commerce, Science, and  
Transportation  
United States Senate  
254 Russell Senate Office Building  
Washington, D.C. 20510-6125

Dear Mr. Chairman:

The Satellite Industry Association (“SIA”)<sup>1</sup> and its member companies respectfully submit this letter to you to clarify why maintaining the current statutory prohibition on the auction of spectrum used for international satellite systems is essential to the growth and success of the U.S. satellite industry, an issue that has been raised recently in connection with an October 28, 2003 letter to you from Northpoint Technology, Ltd. (“Northpoint”).

As you are aware, Section 647 of the Open-Market Reorganization for the Betterment of International Telecommunications Act (“ORBIT Act”) (codified at 47 U.S.C. § 765(f)) withholds from the Federal Communications Commission (“Commission”) “authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services.” In enacting Section 647 of the ORBIT Act, Congress recognized that global and international satellite systems operated by U.S. industry provide numerous benefits to both the developed and developing worlds, making available a seamless global network facilitating commerce, advancing global security, distributing U.S.- produced programming, and providing instant infrastructure where geography or local economic factors present barriers to communication.

Congress also recognized that the complex and time consuming process of deploying viable international satellite systems requires operators to secure rights in many countries rather than just one license in the United States. Section 647 was premised upon the understanding that if the United States were to employ auctions to grant licenses for international satellite services, other countries would inevitably follow suit. The result would be a cascading series of sequential auctions, which would be disruptive to the already lengthy planning process for the development of satellite networks, and would have a potentially devastating effect upon the delivery of, and access to, global satellite services. Sequential auctions in dozens of countries

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<sup>1</sup>SIA Executive Members include: The Boeing Company; Globalstar, L.P.; Hughes Network Systems, Inc.; ICO Global Communications; Intelsat; Iridium Satellite LLC, Lockheed Martin Corp.; Loral Space & Communications Ltd.; Mobile Satellite Ventures; Northrop Grumman Corporation; PanAmSat Corporation; SES Americom, Inc. and Associate Members include Inmarsat, New Skies Satellites Inc, and Verestar Inc.

would not only add greatly to the upfront costs, but would create a staggering level of regulatory and business uncertainty. Faced with multiple consecutive auctions, satellite operators would have no idea whether they would be able to win a sufficient number of licenses in an adequate number of countries to piece together a coverage area that would justify the costs of constructing networks. Furthermore, the investment community would have no way of determining in advance the ultimate financial commitment.

Satellites are a highly spectrum-efficient way to provide voice, video and data services throughout the world. Continued advances by U.S. industry in satellite and receiver technologies over the past few decades have allowed satellite systems to provide greater overall capacity, achieve a higher level of frequency reuse, and foster the growth of applications by a wide range of satellite users. All of these advances have taken place in an environment where U.S. and global regulators have recognized the value that international satellite systems can bring to the world if they are not burdened by potentially devastating auctions in multiple countries.

In light of the continuing critical importance of Section 647 of the ORBIT Act, SIA feels compelled to respond to Northpoint's October 28, 2003 letter. As you are aware, Northpoint is one of many companies that have expressed interest in operating Multichannel Video Distribution and Data Service ("MVDDS") networks in the 12.2-12.7 GHz band, spectrum that is utilized heavily in the United States to provide competitive Direct Broadcast Satellite ("DBS") services to consumers. Northpoint has urged Congress to create on its behalf an exemption from the statutory requirement adopted in the Balanced Budget Act of 1997 (codified at 47 U.S.C. § 309(j)) that the Commission employ auctions to grant licenses to use spectrum for wireless communications services when mutual exclusivity cannot be resolved between multiple applicants.

In lobbying for an exemption from the statutory auction requirement, Northpoint has repeatedly attempted to portray itself as a victim of inequity as a result of the ORBIT Act. For example, Northpoint has suggested that Congress's decision to remove international satellite networks from the auction process has placed terrestrial wireless operators at a competitive disadvantage. Northpoint's assertion contrasts sharply with the position of the Honorable Chairman Michael Powell, who indicated in an October 23, 2003 letter to you that the last decade has seen "explosive wireless growth, innovation, and competition."

Northpoint further contends that the Commission has not held an auction for domestic satellite licenses in the DBS service for more than six years. In the intervening years, however, the Commission has auctioned satellite licenses in another domestic satellite service, the Digital Audio Radio Satellite ("DARS") service, and earlier this year, the Commission announced that it would soon auction licenses for a number of DBS satellite orbital positions capable of serving the United States.

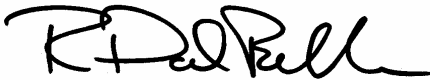
Northpoint also incorrectly asserts that the Commission, acting without auction, recently authorized Boeing to use the 12.2-12.7 GHz band for its Connexion service to provide broadband communications services to passengers and crew on aircraft. The Commission authorized Boeing's Connexion service to use an entirely different frequency band – one allocated for

international and domestic Fixed Satellite Service (“FSS”) networks in the United States and other countries. More important, Boeing’s Connexion service operates on a non-exclusive and unprotected, non-conforming basis in the FSS band, obtaining all of its spectrum capacity from existing, previously licensed FSS networks. Moreover, the grant to Boeing in no way precludes other entities from seeking and securing authority to operate similar networks over FSS capacity. Boeing’s Connexion service is therefore analogous to the millions of satellite earth stations operated by business, government, and individuals at fixed locations around the country pursuant to licenses issued by the Commission. No consideration has ever been given to holding auctions for earth station licenses because earth station operations are not mutually exclusive (a condition for holding auctions under Section 309(j) of the Communications Act).

In the three years since Congress adopted Section 647 of the ORBIT Act, the statutory provision has remained a vital component to the successful growth and operation of international satellite communications networks, providing important manufacturing, employment and export opportunities for the U.S. satellite, information, and technology industries.

We thank you for your time and consideration. Please let us know if you have any additional questions, or if we can provide further information about the important services provided to consumers, business, and the U.S. government by domestic and international satellite communications networks.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard DalBello". The signature is fluid and cursive, with the first name "Richard" and last name "DalBello" clearly distinguishable.

Richard DalBello  
President

cc: Hon. Michael K. Powell, Chairman, Federal Communications Commission