

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Petition for Rulemaking of the Fixed	)	
Wireless Communications Coalition for	)	File No. RM-11664
Service Rules for the Fixed Service	)	
in the 41.0-42.5 GHz Band	)	

**OPPOSITION OF THE SATELLITE INDUSTRY ASSOCIATION**

The Satellite Industry Association (“SIA”) hereby opposes the Petition for Rulemaking of the Fixed Wireless Communications Coalition (“FWCC”) in the above-captioned proceeding.<sup>1</sup> In its Petition, the FWCC seeks to “restart” the Commission’s pending proceeding to establish service rules for Fixed Service (“FS”) operations at 41.0-42.5 GHz.<sup>2</sup> For the reasons explained below, the Commission should reject the Petition as both unfounded and unnecessary.

SIA is a U.S.-based trade association providing worldwide representation of the leading satellite operators, service providers, manufacturers, launch services providers, and ground equipment suppliers.<sup>3</sup> Since its creation more than fifteen years ago, SIA has become the unified

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<sup>1</sup> See *Petition for Rulemaking*, RM-11664 (May 9, 2012) (“Petition”). Public notice of the filing of the Petition was issued on June 7, 2012. See Public Notice, Report No. 2953.

<sup>2</sup> See Petition at 1.

<sup>3</sup> SIA Executive Members include: Artel, Inc.; The Boeing Company; The DIRECTV Group; EchoStar Satellite Services LLC; Harris CapRock Communications; Hughes Network Systems, LLC; Intelsat, S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; LightSquared; Lockheed Martin Corporation.; Northrop Grumman Corporation; Rockwell Collins Government Systems; SES S.A.; and Space Systems/Loral. SIA Associate Members include: ATK Inc.; Cisco; Cobham SATCOM Land Systems; Comtech EF Data Corp.; DRS Technologies, Inc.; Eutelsat, Inc.; GE Satellite; Globecom Systems, Inc.; Glowlink Communications Technology, Inc.; iDirect Government Technologies; Inmarsat, Inc.; Marshall Communications Corporation.; MTN Government Services; NewSat America, Inc.; Orbital Sciences Corporation; Panasonic Avionics Corporation; Spacecom, Ltd.; Spacenet Inc.; TeleCommunication Systems, Inc.; Telesat Canada; Ultisat, Inc.; ViaSat, Inc., and XTAR, LLC. Additional information about SIA can be found at [www.sia.org](http://www.sia.org).

voice of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business.

**I. The Petition Should Be Rejected Because the FWCC Exaggerates the Need for New FS Spectrum and Ignores the Satellite Industry’s Own V-Band Spectrum Plans.**

To support its request for a new FS service rules proceeding, the FWCC overstates the need for more FS spectrum while also overlooking the satellite industry’s planned use of the portion of the V-band that the FWCC covets. Taken together, these two defects present a misleading picture of the V-band’s potential, which fundamentally undermines the rulemaking proposal advanced in the Petition.

The FWCC claims that the wireless industry lacks sufficient spectrum to handle wireless backhaul needs, especially for short links serving densely populated areas.<sup>4</sup> Yet, paradoxically, the FWCC subsequently notes correctly that the 38.6-40.0 GHz band is itself underutilized.<sup>5</sup> The acknowledged availability of wireless spectrum, which is perfectly acceptable for the short links that the FWCC envisions, reveals the Petition to be little more than an unjustified spectrum grab within bands intended primarily for the Fixed-Satellite Service (“FSS”) under the prevailing “soft segmentation” approach.<sup>6</sup> The Commission should reject this invasive proposal. Before seeking to expand into spectrum intended primarily for the FSS, the wireless industry should maximize use of its own designated spectrum.<sup>7</sup>

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<sup>4</sup> See Petition at 2.

<sup>5</sup> See *id.* at 6.

<sup>6</sup> The FWCC decries what it perceives to be an “imbalance” in favor of the FSS in the 41.0-42.0 GHz band, and suggests that it will return with additional proposals to wrest the band away from the FSS when it states that “[t]he FWCC does not presently seek to redress this imbalance.” *Id.* at 4.

<sup>7</sup> The 38.6-40.0 GHz band is just one of many underutilized bands that the FS has at its disposal. This list includes very similar high-frequency bands such as the Digital Electronic Message Service at 24 GHz and the Local Multipoint Distribution Service at 28/31GHz, which between them have 2.3 GHz of spectrum. In addition, there is

The FWCC also makes no showing in its Petition as to on how the FSS will be protected in the 41.0-42.0 GHz band. This is a critical shortcoming, as high-density FSS and FS cannot share spectrum within the same areas.

Not surprisingly, the Petition fails to recognize the satellite industry's own plans to utilize the V-band. Indeed, efforts for commercial satellite use of the V-band spectrum are well underway, with V-band FSS applications now pending before the Commission.<sup>8</sup> Once in place, the services proposed in these applications will result in satellite broadband delivery at faster speeds and with significantly enhanced capabilities. The satellite industry's plans for V-band mean that fast, reliable and affordable satellite broadband will be available to the millions of households in America unserved or underserved by terrestrial broadband. With universal broadband access a priority goal of the National Broadband Plan, the Commission should stay focused on promoting the one technology – satellite – that can ensure broadband delivery to all.

The FWCC also ignores the fact that its proposed actions set up an eventual departure from the international regulatory scheme – championed by the United States in the International Telecommunication Union over many years – that establishes the 40.0-42.0 GHz band as available and desirable for use by high-density applications in the FSS.<sup>9</sup> Any endorsement by the Commission of a scheme that undercuts or dilutes the utility of this important frequency band for FSS evolution would send an unwelcome signal to the rest of the region and the world, and create uncertainty for FSS operators that are now planning to utilize the band for important consumer and commercial services.

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the 10 GHz of spectrum that was made available to the FS in the 70/80 GHz bands in 2003 for non-exclusive nationwide licensing as well as the unlicensed 60 GHz band.

<sup>8</sup> See File Nos. SAT-LOI-20111220-00242 and SAT-LOA-20111223-00248.

<sup>9</sup> See ITU Radio Regulations No. 5.516B.

As an important aside, SIA believes the Commission can augment the effort to achieve universal broadband availability by immediately addressing service rules for the V-band – and respectfully requests that it make finalizing these rules a top priority.<sup>10</sup> A definitive set of service rules governing V-band satellite operations will undoubtedly encourage investment within the satellite industry, thereby accelerating the expansion of high quality, low cost satellite-delivered broadband.

## **II. The Petition Should Be Rejected As Redundant And Wasteful Of Commission Resources.**

In addition to the problem areas discussed above, the FWCC’s Petition for Rulemaking is also procedurally redundant and improperly expansive in scope. These defects provide separate grounds for dismissal of the Petition.

Most importantly, the Petitions seeks a “restart” of a rulemaking proceeding that remains pending following the submission of comments and reply comments early last year. A redundant rulemaking proceeding, such as the one proposed here, is neither a necessary nor appropriate means to revisit a pending proceeding. It is wholly wasteful of Commission resources to commence a new proceeding to consider proposed regulations that are currently under consideration. In SIA’s view, the Petition should be dismissed as repetitive.<sup>11</sup>

The Petition also confuses the scope of the pending rulemaking proceeding it seeks to “restart.” The FWCC acknowledges in its Petition that the pending FS service rules proceeding

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<sup>10</sup> The stage is being set for this activity with the Commission’s pending Third Notice of Proposed Rulemaking in IB Docket No. 97-95 poised to resolve some lingering allocation issues – some of which overlap with the FWCC Petition, as explained below. *See* Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz and 48.2-50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5-42.5 GHz Frequency Band; Allocation of Spectrum in the 46.9-47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0-38.0 GHz and 40.0-40.5 GHz for Government Operations, Third Notice of Proposed Rulemaking, IB Docket No. 97-95 (released Nov. 1, 2010).

<sup>11</sup> *See* 47 C.F.R. § 1.401(e).

only covers the 37.0-38.6 GHz and 42.0-42.5 GHz bands.<sup>12</sup> However, without explanation or justification, the FWCC then proceeds to propose site-licensed, point-to-point service rules for the 41.0-42.5 GHz band in its entirety, as if 41.0-42.0 GHz is equivalent to 42.0-42.5 GHz in terms of allocation status.<sup>13</sup> Under the “soft segmentation” approach, that is clearly not the case. The Commission should reject any proposal that attempts to blur the lines separating FSS operations from FS operations.

Finally, SIA observes that the FWCC uses the Petition to untimely raise its opposition to the FCC’s proposed FSS allocation at 42.0-42.5 GHz.<sup>14</sup> As FWCC notes in the Petition, the Commission’s 2010 Third Notice of Proposed Rulemaking in IB Docket No. 97-95 proposed, among other things, to delete the BSS allocation from, and to add an FSS allocation to, the 42.0-42.5 GHz band. SIA was one of six parties who filed comments or reply comments in that proceeding, and sought to include an FSS allocation at 42.0-42.5 GHz.<sup>15</sup> The FWCC was not among the six parties that participated. The FWCC had its opportunity to make its position known on the 42 GHz allocation issue but passed on the opportunity to comment. Its out-of-time opposition to the Commission’s FSS allocation proposal here is plainly inappropriate.

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<sup>12</sup> See Petition at 5.

<sup>13</sup> See *id.* at 8.

<sup>14</sup> See *id.* at 9-10.

<sup>15</sup> See Comments of the Satellite Industry Association, IB Docket No. 97-95 at 4 (filed Jan. 6, 2011).

**III. Conclusion.**

For the foregoing reasons, SIA urges the Commission to reject the FWCC's Petition for Rulemaking as unnecessary and counterproductive to the satellite industry's efforts to utilize the V-band to its fullest.

Respectfully submitted,

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