

May 11, 2017

VIA EMAIL

Mr. Martin Proulx
Director General
Engineering, Planning & Standards Branch
Innovation, Science & Economic Development Canada
235 Queen Street, 6th Floor
Ottawa, ON K1A 0H5

Dear Mr. Proulx:

Re: Reply Comments of WorldVu Satellites Limited (d/b/a “OneWeb”) - Consultation on the Licensing Framework for Non-Geostationary Satellite Orbit (NGSO) Systems and Clarification of Application Procedures for All Satellite Licence Applications, Canada Gazette, Part I, 4 March 2017, Notice No. SMSE-009-17

1. In accordance with the procedures set out in the above-captioned consultation document (“SMSE-009-17”), as amended by the Department’s notice in the *Canada Gazette*, Part 1, 1 April 2017, Notice SMSE-010-17, WorldVu Satellites Limited (d/b/a “OneWeb”), submits these supplemental reply comments on SMSE-009-17.
2. OneWeb has reviewed the reply comments that were prepared by the coalition of Canadian satellite operators and industry stakeholders (the “Coalition”) and supports those comments in their entirety.
3. The purpose of these reply comments is to provide OneWeb’s response to the comments submitted by interested parties on the Department’s milestone proposal for Canadian licensed NGSO systems.
4. This proposal would change the existing requirement for Canadian-licensed NGSO operators to deploy their full constellations by Year 6 of their authorizations to a significantly more relaxed deployment schedule. Specifically, the Department is proposing that “large NSGO systems”, consisting of 30 or more satellites, would be required to deploy one-third of their authorized constellations within six (6) years following the

issuance of their licences and that their full constellations be deployed within nine (9) years after licensing.

5. Only a small number of parties submitted comments on this proposal. Kepler noted that the requirement that only a third of the system be deployed within 6 years is “relatively low” and SpaceX noted that the Department’s current 6 year deployment requirement was designed to “deter warehousing” just as the current 6 Year deployment milestone established by the Federal Communications Commission (“FCC”) in the United States is intended to offset the incentives for warehousing that could harm both competition and consumers.
6. OneWeb took the position that the Department’s proposal would not only result in spectrum warehousing, but would effectively grant a milestone extension to NGSO systems that are currently authorized by the Department including, most notably, the commercial NGSO systems of Telesat Canada. As noted by OneWeb:

...such an extension would constitute a major windfall for a company that is not only capable of meeting the milestones currently set out in CPC 2-6-02, but which clearly was prepared to adhere to those milestones when it first applied to the Department for its commercial NGSO authorizations.
7. OneWeb further observed that, even though SMSE-009-17 is silent on the question as to whether the Department’s proposal would be applied retroactively to currently authorized, but not yet launched NGSO networks, there is little doubt that Canadian licensees who currently hold these authorizations “would immediately request that their milestones be ‘aligned’ with any new implementation milestones for NGSO networks.”
8. Which is exactly what Telesat has proposed in this proceeding. In fact, Telesat has gone further and argues that if it can demonstrate that “substantial service” is being provided after Year 6 or it can meet a minimum “safe harbour” standard (defined as deployment of 33% of the constellation), then there is no need to establish any further deployment milestones at Year 9 or otherwise.

9. In its initial comments in this proceeding, OneWeb noted that it was a participant in the FCC’s Notice of Proposed Rulemaking proceeding, entitled *Updates to Part 2 and Part 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, IB Docket No. 16-408 (the “NPRM proceeding”) and that it had urged the FCC in that proceeding to refrain from relaxing its existing milestone rules because this would help to discourage speculative space station applications as well as the spectrum warehousing that is a predictable by-product of those applications.
10. In a similar vein, OneWeb urges the Department to resist proposals such as those advocated by Telesat that would effectively allow spectrum to be warehoused on an indefinite basis, based on a vague and ill-defined “showing” of “substantial service” after Year 6 of the licence.
11. This proposal is fraught with self-serving proposals as described below, noting that the current Department milestones for NGSO FSS systems are as follows¹:
 - i) deployment of the first satellite after 5 years, and
 - ii) deployment of the entire constellation after 6 years.
12. In its comments, Telesat which currently holds the only (large scale) NGSO FSS system authorization-in-principal, requests the Department to give it a wide-ranging flexibility in deploying its constellation(s) by:
 - a. Allowing scaling up of the constellation beyond its filed parameters. In paragraph 82 and 83 of its Comments, Telesat indicates that:

“Additional spacecraft and orbit planes can be added over time to expand system capacity in response to demand” and “Department should adopt a hybrid implementation model that would allow operators some level of certainty ... to preserve their authorizations while at the same time allowing systems necessary flexibility in system implementation.”
 - b. Creating a safe-harbour regime whereby an operator would only be required to deploy 33% of its constellation at Year 6 and no further obligation thereafter. In paragraph 83 of its Comments, Telesat proposes that:

¹ See Telesat’s LEOVantage authorization at <https://www.ic.gc.ca/eic/site/smt-gst.nsf/eng/sf11064.html>

“That hybrid model would give operators the option either to make a sufficient showing of substantial service consistent with their application or meet a minimum “safe harbour” standard, which Telesat suggests to be set at 33% of the satellites authorized for the constellation at the six-year mark. Once such standard is met, Telesat urges that no additional nine-year mark showing should be required.”

- c. Telesat further suggests in paragraph 84 that should its hybrid proposal not be retained, the Department should establish an undefined and unenforceable test consisting of a demonstration of a “viable service”, consistent with the application which has never been put on public notice and which is therefore not subject to scrutiny by the public or other operators:

“not later than six years from license grant an NGSO licensee must be in commercial service and must be providing a commercially viable service consistent with that proposed in its application.”

- d. At paragraph 85, Telesat believes that the Department should also allow licensees to increase their constellation to satisfy demand, but fails to address how such an increase may affect or impact other Canadian license holders:

“In addition, the Department should leave room for NGSO FSS licensees to expand their constellations to satisfy increasing demand.”

- e. Lastly, at paragraph 87, Telesat further “urges” the Department to give current NGSO applicants and authorization-holders, the opportunity to amend their authorizations, without any penalty:

“Telesat further urges that, if the Department decides to modify its milestone requirements, the Department should give current NGSO applicants and authorization-holders an opportunity to amend their authorizations to reflect such changes in milestone requirements. In particular, those applicants or authorization-holders who may have submitted more conservative proposals in light of current “build all or lose all” rules should have an opportunity to modify their proposals or authorizations so as to specify a greater number of satellites and orbital planes that would be consistent with their anticipated system expansion over time.”

13. This set of proposals by the only operator that currently holds an approval-in-principle does not constitute a “clarification” of the Department’s rules for implementation

milestones, but rather a material change to those rules, the seeming effect of this proposal is to grant a milestone extension to NGSO systems that are currently authorized by the Department. As noted previously by OneWeb, such an extension would constitute a major windfall for a company that is not only capable of meeting the milestones currently set out in CPC 2-6-02, but which clearly was prepared to adhere to those milestones when it first applied to the Department for its commercial NGSO authorizations.

14. OneWeb does agree with Telesat's position at paragraphs 89 and 90, whereby it has taken the position that it would be reasonable to "soften" the consequences of not meeting milestones, so as not to render the authorization null and void, if milestones are met. In the OneWeb's view, this represents an appropriate regulatory balance that provides some additional flexibility for NGSO operators without rendering the NGSO milestone mechanism toothless.

Yours very truly,

[original signed by]

Marc Dupuis

Email to: ic.satelliteauthorization-autorisationsatellite.ic@canada.ca