

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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Application of)
)
ICO GLOBAL COMMUNICATIONS)
(HOLDINGS) LIMITED; DBSD NORTH)
AMERICA, INC. DEBTOR-IN-POSSESSION;)
NEW DBSD SATELLITE SERVICES G.P.)
DEBTOR-IN-POSSESSION,)
)
Transferors,)
)
and) File Nos. _____
)
DISH NETWORK CORPORATION,)
)
Transferee,)
)
For Authority to Transfer Control.)
_____)

**CONSOLIDATED APPLICATION FOR AUTHORITY
TO TRANSFER CONTROL**

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	1
II.	THE PARTIES AND THE TRANSACTION	3
A.	Description Of The Parties	3
1.	DISH	3
2.	DBSD	4
B.	Description Of The Transaction	6
1.	The Investment Agreement	6
2.	Sprint Claims	7
3.	Implementation Agreement, Coordination Agreement, And Other Agreements With ICO Global	7
C.	Authorizations To Be Transferred	8
1.	Authorizations	8
2.	Other Filings	9
3.	Effect Of Transfer	9
III.	THE TRANSACTION SERVES THE PUBLIC INTEREST	9
A.	The Transaction Meets All Applicable Statutory And Regulatory Requirements	11
B.	The Transaction Will Enable DBSD To Emerge From Bankruptcy	11
C.	We Expect The Transaction To Result In The Provision Of Mobile Broadband Services	12
1.	DBSD’s Technology	13
2.	DISH’s Plan And The Resulting Benefits	15
D.	The Transaction Will Promote Rather Than Harm Competition	16
1.	The Transaction Will Introduce Additional Competition	17
2.	DBSD May Be Able To Compete Against Incumbent CMRS Providers, And Will Certainly Be Disciplined By Them	20
3.	Fixed Satellite Broadband Access Is Not A Close Substitute For Mobile Broadband	20
IV.	REQUEST FOR PERMIT-BUT-DISCLOSE STATUS	21
V.	CONCLUSION	21

Declaration of Thomas Cullen, DISH Network Corporation

Declaration of David Zufall, DBSD North America, Inc. Debtor-in-Possession

Attachment 1 – Response to FCC Form 312, Questions 40 and A20

Attachment 2 – Response to FCC Form 312, Question 36

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I. INTRODUCTION AND SUMMARY

The Applicants seek the consent of the Federal Communications Commission (the “Commission”) to the transfer of control over the licenses and authorizations held by New DBSD Satellite Services G.P. Debtor-in-Possession (“DBSD DIP”). The proposed transfer will allow DBSD DIP to emerge from bankruptcy as New DBSD Satellite Services G.P. (individually and collectively with its predecessors-in-interest and debtor-affiliates, “DBSD”), an indirect, wholly owned subsidiary of DISH Network Corporation (“DISH”). The Commission previously approved the transfer of control over these licenses to allow DBSD to emerge from bankruptcy

under different proposed ownership.¹ That transaction, however, has not been consummated because of intervening events in the bankruptcy proceeding. Specifically, the Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), which has been supervising DBSD’s restructuring, has now given its preliminary approval to a superior alternative. The Court has approved an investment agreement between DBSD and DISH leading to a new plan for DBSD’s emergence from bankruptcy. The parties expect the Bankruptcy Court to confirm a new plan of reorganization by July 18, 2011, provided that the plan will not become effective until the grant of the appropriate regulatory approvals, including Commission consent.² The transaction proposed in the instant application is intended to effectuate this plan of reorganization. Upon confirmation of the plan of reorganization by the Bankruptcy Court, Commission approval, and consummation of the proposed transaction, DISH will own all of DBSD’s stock and thereby control the authorizations held by DBSD.

This transaction represents a turning point for the 2 GHz Mobile-Satellite Service (“MSS”) band by enabling DBSD to emerge from bankruptcy under the control of DISH – a pioneer and innovator in the satellite and video distribution industries. Competitively, the Applicants expect that the transaction will enable a Mobile-Satellite Service/Ancillary Terrestrial Component (“MSS/ATC”) competitor to commence service. DISH will contribute its financial wherewithal and its experience in expanding the subscriber base of new services. The plan of DISH and DBSD will also benefit from the complementary relationship between mobile broadband services and the Multichannel Video Programming Distributor (“MVPD”) service

¹ See New DBSD Satellite Services G.P., Debtor-in-Possession, Transfer of Control of Earth Station and Ancillary Terrestrial Component Licenses and Conforming Modifications to Commission Records, *Order*, 25 FCC Rcd. 13664 (2010) (“*DBSD Transfer Order*”).

² *DBSD North America, Inc.*, Case No. 09-13061 (REG) (Bankr. N.Y.S.D. Mar. 15, 2011).

DISH provides today, and from access to DISH's existing customer base of more than 14 million satellite TV subscribers.

II. THE PARTIES AND THE TRANSACTION

A. Description Of The Parties

1. DISH

DISH's roots reach back more than 30 years when its Chairman, Charles W. Ergen, first entered the satellite television business as a distributor of C-band television satellite systems. DISH's predecessor in interest received its first Direct Broadcast Satellite ("DBS") construction permit in 1989.³ Of the more than a dozen entities that obtained such permits, only DISH and one other company have succeeded. DISH launched its first satellite, EchoStar 1, in December 1995, and began providing service in 1996. Many analysts questioned DISH's ability to reach the 1 million household milestone; yet it vaulted past 1 million subscribers in 1997 and signed up its 14 millionth household in 2009.⁴

DISH is now a publicly-traded Fortune 200 company and consists of the entities that made up the media and entertainment arm of the former EchoStar Communications Corporation, founded in 1980 by Mr. Ergen, Cantey M. Ergen, and Jim DeFranco. The two businesses officially split in 2008, with EchoStar Corporation ("EchoStar") becoming the source for the technology DISH uses to offer TV services. Mr. Ergen has remained the controlling shareholder of both entities. EchoStar has a minority ownership interest in TerreStar Corporation, the parent company of TerreStar Networks, Inc. ("TerreStar"), the other 2 GHz MSS licensee, which is the

³ See Continental Satellite Corporation, *Memorandum Opinion and Order*, 4 FCC Rcd. 6292 (1989).

⁴ Declaration of Thomas Cullen ¶ 7 (attached hereto) ("Cullen Declaration").

subject of another bankruptcy proceeding, and is also a debt investor in TerreStar and TerreStar-affiliated entities.

DISH is known as the value leader among all subscription television providers. The company has a reputation for keeping internal costs low in order to pass savings on to subscribers. Additionally, DISH is focused on improving customer service, an investment that has paid off: DISH ranks first in customer satisfaction among all cable and satellite providers according to the 2010 American Customer Satisfaction Index survey results.⁵

DISH's goal is to be the best at delivering video, anytime, anywhere. The Slingbox product of DISH's affiliate EchoStar was a natural fit for that goal, complementing the service that DISH provides its subscribers by empowering them to access their programming wherever they are.

2. DBSD

In July 2001, the Commission authorized ICO Services Limited, the predecessor-in-interest to DBSD and an indirect wholly owned subsidiary of ICO Global Communications (Holdings) Limited ("ICO Global"), to provide MSS using nongeostationary-orbit satellites.⁶ In May 2005, the Commission modified the authorization to allow DBSD to provide MSS using a geostationary-orbit ("GSO") satellite.⁷ DBSD later selected the 2010-2020 MHz and 2180-2190 MHz bands for its operation.⁸ In January 2009, DBSD received Commission approval to operate dual-mode mobile earth terminals and ATC facilities on a non-common-carrier basis.⁹

⁵ *Id.* ¶ 9.

⁶ *See* ICO Services Limited, 16 FCC Rcd. 13762, 13762 ¶ 1 (2001).

⁷ *See* ICO Satellite Services G.P., 20 FCC Rcd. 9797, 9797 ¶ 1 (2005).

⁸ *See* Policy Branch Information: Actions Taken, 23 FCC Rcd. 8551, 8551 (2008).

⁹ *See* New ICO Satellite Services G.P., *Order and Authorization*, 24 FCC Rcd. 171, 171 ¶ 1 (2009) ("ATC Order").

In August 2005, DBSD North America, Inc. (“DBSD NA”), DBSD’s corporate parent, issued \$650 million in the aggregate principal amount of 7.5% convertible senior secured notes due August 15, 2009 (the “Senior Notes”) to fund DBSD’s North American satellite development initiatives and operations. On March 27, 2008, due in part to the unanticipated illiquidity of certain auction rate securities in which DBSD NA had invested, DBSD NA entered into a \$40 million revolving credit facility (the “Credit Facility”) to provide the cash flow necessary to insure DBSD’s satellite, DBSD G1, for launch and to sustain operations during 2008.

The disrupted credit markets and the continued illiquidity of the auction rate securities rendered DBSD NA unable to satisfy, recapitalize, or refinance (i) the Senior Notes when they matured in August 2009, or (ii) the Credit Facility when it matured in May 2009. In addition, despite the successful launch of the DBSD G1 satellite in April 2008, DBSD was prohibited under Commission rules from offering commercial services for more than a year, until the Commission provided regulatory relief in June 2009.¹⁰ In these circumstances, DBSD NA, DBSD, and certain subsidiaries of DBSD NA (collectively, the “Debtors”) filed for chapter 11 protection on May 15, 2009.

On September 29, 2010, the Commission approved a transfer of control to allow DBSD to emerge from bankruptcy under a reorganization plan previously approved by the Bankruptcy Court.¹¹ That proposed transaction, however, was not consummated because of intervening events in the bankruptcy proceeding. Specifically, on February 1, 2011, DBSD entered into an investment agreement with DISH to provide it with a means for restructuring and emerging from

¹⁰ See *Improving Public Safety Communication in the 800 MHz Band, Report and Order and Order and Further Notice of Proposed Rulemaking*, 24 FCC Rcd. 7904, 7922-23 ¶ 47 (2009).

¹¹ See *DBSD Transfer Order*, 25 FCC Rcd. at 13664 ¶ 1.

bankruptcy. The agreement was subsequently modified to take into account concerns raised in the bankruptcy proceeding, and on March 15, 2011, it was approved by the Bankruptcy Court as modified. In approving the investment agreement, Judge Gerber characterized it as a “win-win” for the company and its creditors, something that he found to be “a very rare occurrence” in his time as a bankruptcy judge.¹² If the reorganization is successfully completed and the Commission approves this application, DBSD will become indirectly and wholly owned by DISH. A hearing to confirm the plan of reorganization is expected to occur by July 18, 2011.

B. Description Of The Transaction

1. The Investment Agreement

DBSD and DISH have entered into an investment agreement pursuant to which DISH will acquire 100 percent of the equity of the reorganized DBSD upon DBSD’s emergence from bankruptcy, which will only occur upon receipt of regulatory approvals. Pursuant to that agreement, DISH has made a cash tender offer to purchase all allowed Senior Note claims, allowed general unsecured claims, and allowed non-ordinary course administrative claims on account of cure costs to the extent that DISH does not hold those claims already. Further, DBSD has received Bankruptcy Court approval for a debtor-in-possession credit facility, which DISH has agreed to provide in the aggregate principal amount of \$87.5 million, to allow DBSD to continue operations prior to its emergence from bankruptcy. Upon consummation, DBSD will emerge as an indirect, wholly owned subsidiary of DISH, with all outstanding prepetition debt claims extinguished.

¹² Hearing Transcript, *DBSD North America, Inc.*, Case No. 09-13061 (REG), at 43 (Bankr. N.Y.S.D., Mar. 16, 2011).

2. Sprint Claims

Like certain other prepetition claims (as described above) asserted against the Debtors during bankruptcy, the claims asserted by Sprint Nextel Corporation (“Sprint”), seeking reimbursement of costs arising from the relocation of Broadcast Auxiliary Service facilities from the 2 GHz bands, are covered under DISH’s tender offer. DISH has specifically offered to pay Sprint \$40 million in full and final satisfaction of its prepetition claims if Sprint agrees to tender its claims. If Sprint does not tender its claims, DISH and DBSD have agreed to pay Sprint the allowed amount of the claims, as adjudicated by the Bankruptcy Court. Thus, Sprint’s claims will be, and should be, resolved by the Bankruptcy Court if Sprint does not choose to tender. This is consistent with the Commission’s acknowledgment that “the automatic stay imposed by the Bankruptcy Code prohibits Sprint Nextel from seeking reimbursement of costs directly from New DBSD DIP outside of the bankruptcy claims process.”¹³

3. Implementation Agreement, Coordination Agreement, And Other Agreements With ICO Global

DISH has also entered into various agreements with ICO Global, including an Implementation Agreement, a Restructuring Support Agreement, and a Tax Matters Agreement.¹⁴ Among other things, ICO Global has agreed to give DBSD’s system priority over ICO Global’s Medium Earth Orbit system over a territory in and around North America. ICO Global has also agreed to grant DISH a call right to acquire its equity interest in DBSD upon Commission approval and certain other conditions. ICO Global has further agreed to provide certain transitional services and intellectual property rights, to collaborate in connection with

¹³ *DBSD Transfer Order*, 25 FCC Rcd. at 13669 ¶ 12.

¹⁴ ICO Global has also entered into a related License and Spectrum Coordination Agreement and Transition Space and Services Agreement with DBSD as part of this transaction.

certain tax matters, and to support and facilitate DBSD's restructuring. DISH will pay ICO Global a total of approximately \$325 million for all of these rights and services.¹⁵

C. Authorizations To Be Transferred

Of the agreements, only the transfer of control over DBSD's authorizations and the exercise of the call right to acquire ICO Global's equity interest in DBSD require Commission approval.¹⁶ The issuance of all of DBSD's stock to DISH, and the ability to exercise the call right, will occur subsequent to confirmation of the reorganization plan and Commission approval.

1. Authorizations

DBSD and DISH seek consent to the transfer of control of the following authorizations:¹⁷

¹⁵ Of that amount, \$10 million will be deferred and paid within five days after all necessary approvals from governmental entities have been obtained and are in full force and effect.

¹⁶ The Applicants note that DISH's exercise of the call right for ICO Global's equity interests in DBSD and the issuance of all of DBSD's new stock to DISH are duplicative of one another in their substance in that each would provide for DISH's ownership of all or nearly all of DBSD's capital stock, but in either case after receipt of FCC approval. The Implementation Agreement does not provide an additional avenue of emergence for DBSD from bankruptcy other than the anticipated Bankruptcy Court confirmation of the plan. Upon emergence from bankruptcy, the existing equity interests in DBSD (whether held by DISH or ICO Global) will be extinguished, and the new equity of DBSD will be issued to DISH pursuant to DBSD's plan of reorganization. As a practical matter, it is highly unlikely that the call right will ever be exercised so long as the Investment Agreement remains in place. Nevertheless, as a technical matter, the Applicants are requesting approval for both the transfer of control reflected in the Investment Agreement and for the potential exercise of DISH's call right under the Implementation Agreement, and thus ICO Global has been included as a transferor.

¹⁷ The transfer of control of the Letter of Intent ("LOI") authorization resulting from the instant transaction is not subject to public notice and prior Commission approval requirements. *See DBSD Transfer Order*, 25 FCC Rcd. at 13667-68 ¶ 7. Nonetheless, the Applicants have completed a Form 312 with respect to that transfer for informational purposes and to assist the Commission in making the appropriate administrative updates to its records.

Licensee	Call Sign	Radio Service
New DBSD Satellite Services G.P., Debtor-in-Possession	S2651	MSS space station
New DBSD Satellite Services G.P., Debtor-in-Possession	E080035	S-band earth station in North Las Vegas
New DBSD Satellite Services G.P., Debtor-in-Possession	E080070	Ku-band earth station in North Las Vegas
New DBSD Satellite Services G.P., Debtor-in-Possession	E070291	S-band pointing beacon earth stations
New DBSD Satellite Services G.P., Debtor-in-Possession	E070290	Ka-band gateway earth station in North Las Vegas
New DBSD Satellite Services G.P., Debtor-in-Possession	E070272	S-band blanket license for mobile earth terminals and ATC authority

2. Other Filings

The Applicants request that grant of these applications include authority for transfer of control over any authorizations that may be obtained after this date and prior to consummation of the transaction discussed herein, including: (1) Special Temporary Authorizations (“STAs”) held by DBSD; (2) authorizations issued to DBSD prior to consummation; and (3) applications filed by DBSD and pending during the period prior to consummation.

3. Effect Of Transfer

After Commission approval and consummation of the proposed transaction, DBSD will continue to hold the Letter of Intent (“LOI”) authorization for the 2 GHz MSS band, the license for four S-band Pointing Beacon earth stations, the North Las Vegas S-band test antenna license, Ku-band and Ka-band gateway earth station licenses, the blanket MET/ATC license, and any new authorizations obtained prior to consummation of the transaction.

III. THE TRANSACTION SERVES THE PUBLIC INTEREST

The proposed DISH-DBSD transaction satisfies every element of the Commission’s public interest analysis under Section 310(d) of the Communications Act: (i) whether the

transaction would result in a violation of the Communications Act, other applicable statutes or the Commission's rules; (ii) whether the transaction promises to yield affirmative public interest benefits; and (iii) whether the transaction would substantially frustrate or impair the Commission's implementation or enforcement of the Communications Act or other related statutes or interfere with the Act's objectives.¹⁸ This public interest evaluation necessarily encompasses the "broad aims of the Communications Act,"¹⁹ which include a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private-sector deployment of advanced services, ensuring a diversity of information sources and services to the public,²⁰ and generally managing spectrum in the public interest.²¹ The competition analysis involves an evaluation of the likely competitive effects of the transaction and whether the proposed transfer creates a significant likelihood of competitive harm.²²

¹⁸ See, e.g., Comcast Corp., General Electric Co., and NBC Universal, MB Docket No. 10-56, *Memorandum Opinion and Order*, FCC 11-4 ¶¶ 22-23, 26 (rel. Jan. 20, 2011) ("*Comcast-NBC Order*"); Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee, *Memorandum Opinion and Order and Report and Order*, 23 FCC Rcd. 12348, 12363 ¶ 30 (2008) ("*Sirius-XM Order*"); News Corp. and DIRECTV Group, Inc. and Liberty Media Corp. for Authority to Transfer Control, *Memorandum Opinion and Order*, 23 FCC Rcd. 3265, 3276 ¶ 22 (2008) ("*Liberty Media-DIRECTV Order*"); SBC Comm. Inc. and AT&T Corp. Applications for Approval of Transfer of Control, *Memorandum Opinion and Order*, 20 FCC Rcd. 18290, 18300 ¶ 16 (2005) ("*SBC-AT&T Order*"); Time Warner Inc. and America Online, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd. 6547, 6548-49 ¶ 1 (2001) ("*AOL-Time Warner Order*").

¹⁹ *Sirius-XM Order*, 23 FCC Rcd. at 12364 ¶ 31; *Liberty Media-DIRECTV Order*, 23 FCC Rcd. at 3277-78 ¶ 23; Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corp. for Consent to Transfer Control of Licenses and Authorizations, *Memorandum Opinion and Order*, 19 FCC Rcd. 21522, 21544 ¶ 41 (2004); *News Corp.-Hughes Order*, 19 FCC Rcd. at 483-84 ¶ 16.

²⁰ 47 U.S.C. § 521(4); see also 47 U.S.C. § 532(a).

²¹ *Comcast-NBC Order* ¶ 23.

²² *AOL-Time Warner Order*, 16 FCC Rcd. at 6549 ¶ 1.

Here, the transaction will violate no statute or Commission rule, will frustrate no Commission objective, and will yield substantial public interest benefits related to the broad aims of the Communications Act, especially with respect to competition. Specifically, we expect that the transaction will result in the use of the 2 GHz band for, among other things, mobile broadband services, marshaling the experience and assets that DISH brings to the table. These benefits can be achieved without paying the price of eliminating a competitor. Neither DISH nor DBSD provides any mobile broadband services today, either by terrestrial or by satellite means. Far from decreasing the number of market participants, the transaction will facilitate the creation of a MSS/ATC service provider and help introduce additional competition in the relevant mobile broadband markets.

A. The Transaction Meets All Applicable Statutory And Regulatory Requirements

Both DISH and DBSD are Commission licensees, and the qualifications of all relevant parties are therefore a matter of record before the Commission. The proposed transaction does not implicate any foreign ownership, aggregation, cross-ownership, or any other restrictions imposed by the Communications Act, other applicable statute, or Commission regulation.

B. The Transaction Will Enable DBSD To Emerge From Bankruptcy

The Commission has found that a transaction facilitating the retirement of debt and improving access to capital is likely to offer substantial public benefits.²³ More generally, the Commission has routinely found that approving the transfer of authorizations in connection with

²³ Iridium Holdings LLC and GH Acquisition Corp., *Memorandum Opinion and Order and Declaratory Ruling*, 24 FCC Rcd. 10725, 10736 ¶ 26 (2009) (“[T]he proposed transaction is likely to result in public benefits, including the long-term viability of Iridium as a provider of global mobile satellite services [T]he retirement of Iridium’s debt is a reasonable step to protect Iridium from refinancing existing debt during periods of global financial instability.”).

entities emerging from bankruptcy-related restructuring benefits the public interest by facilitating the introduction of new services and continuation of existing services to the public.²⁴

C. We Expect The Transaction To Result In The Provision Of Mobile Broadband Services

We expect that the proposed transaction will result in the provision of mobile broadband services through the use of DBSD's 2 GHz MSS/ATC spectrum assignment. This can be made possible through the combination of DISH's experience and synergies with its existing service and customer base, on the one hand, with DBSD's MSS/ATC resources and technology, on the other. Chairman Genachowski repeatedly has extolled the benefits of mobile broadband: "no sector now holds more promise for opportunity, for economic growth, for improvements to our quality of life, and for our global competitiveness."²⁵ In the Chairman's words, mobile broadband "could surpass all prior platforms in [its] potential to drive economic growth and opportunity."²⁶ As the Chairman also stated very recently:

Mobile broadband can also power innovations in areas like public safety, education, health care, and energy – including 21st century devices that can help police and firefighters save lives – digital textbooks and software that can help teachers teach and students learn – remote monitoring technologies for people with diabetes or heart disease – and smart-grid technologies that can reduce energy costs and increase energy security. . . . The opportunities of mobile communications are huge. We need to seize them.²⁷

²⁴ International Authorizations Granted, 19 FCC Rcd. 4079, 4080 (2004); Space Station Licensee, Inc. and Iridium Constellation LLC, *Memorandum Opinion and Order*, 17 FCC Rcd. 2271, 2288-89 ¶¶ 40-44 (2002); ICO-Teledesic Global Limited, *Memorandum Opinion and Order*, 16 FCC Rcd. 6403, 6407 ¶ 10 (2001); *see also* Loral/Qualcomm Partnership, L.P., *Order*, 10 FCC Rcd. 2333, 2334 ¶ 12 (1995) (even if a "major" change of ownership occurs, it is in the public interest when it is motivated by a need for financing).

²⁵ *See, e.g.*, Julius Genachowski, Chairman, Federal Communications Commission, Remarks as Prepared for Delivery, CTIA Wireless 2011, at 4 (Mar. 22, 2011).

²⁶ *Id.* at 5.

²⁷ Julius Genachowski, FCC Chairman, Remarks on Spectrum as Prepared for Delivery, White House (Apr. 6, 2011).

In approving this transaction, the Commission will enable DBSD to emerge from bankruptcy and come under the ownership of a capable, recognized innovator in satellite technology, which moreover has unique experience in developing a retail operation and growing it from zero to more than 14 million subscribers.

1. DBSD's Technology

DBSD has driven much innovation in the MSS/ATC sector, from its early initiation of multiple development contracts to explore the possibility of incorporating satellite communications protocols into cellular chipsets, to its pioneering use of ground-based-beam-forming ("GBBF") on its G1 satellite system.

In April 2008, DBSD successfully launched the GSO MSS satellite G1, operating in the 2010-2020 MHz and 2180-2190 MHz bands. The G1 satellite employs a two-way GBBF system to support hybrid MSS/ATC services. The G1 S-band phased-array antenna, combined with GBBF, provides the DBSD system with the capability to adjust communication beam size, shape, location, power, frequency assignments, and protocol employed – all from the ground. G1's advanced antenna design along with innovative GBBF technologies will enable DBSD to implement multiple air interface protocols in unique and different ways.²⁸

Through the up-front investment of several hundreds of millions of dollars, DBSD now has a functioning and licensed MSS/ATC system. DBSD's experience with its first-of-its-kind MSS/ATC system has validated hybrid satellite/terrestrial architectures and coverage models, while also demonstrating the differentiated service capabilities of MSS/ATC systems beyond

²⁸ Declaration of David Zufall ¶ 4 (attached hereto) ("Zufall Declaration").

traditional voice and data services.²⁹ The trials also have demonstrated efficient use of spectrum and system resources.

DBSD undertook an early initiative in 2007 to launch a development program with Qualcomm to demonstrate that satellite communication technology could be integrated efficiently into standard cellular chipsets and devices. DBSD unveiled the resulting Qualcomm-developed Enhanced Geostationary Air Link (“EGAL” or “Satellite-EVDO”) technology at the CTIA Wireless Show in 2009. This development led to an arrangement with Qualcomm and other MSS operators to commercialize this technology and, in the process, create a common platform that has the potential to reduce costs for, and enhance the competitiveness of, the entire MSS/ATC industry.³⁰

DBSD has been instrumental in developing a standard for technology development in the S-band to provide equipment needed to support competitive consumer services. For example, EGAL is based on the 3GPP2 framework, and full EGAL standardization is virtually complete, paving the path to integration with terrestrial 3GPP (*e.g.*, LTE and UMTS) or 3GPP2 (*e.g.*, CDMA and EVDO/HRPD). Specifically, the core technologies required for integration of EGAL and terrestrial LTE operation exist today. DBSD, together with TerreStar, has led efforts in 3GPP to standardize the baseline design for how LTE can be optimally deployed terrestrially in the S-band. DBSD is actively working through the standards process with vendors and carriers to ensure that S-band LTE equipment can be produced using industry standard practices.³¹

²⁹ *Id.* ¶ 5.

³⁰ *Id.* ¶ 6.

³¹ *Id.* ¶ 7.

By demonstrating the viability and utility of hybrid IP-based platforms for innovative and differentiated offerings, DBSD has paved the way for the implementation of next-generation mobile networks that will help meet the growing consumer demand for competitive data services, while leveraging unique MSS-based capabilities for advanced services to rural and otherwise unserved areas. DBSD's development efforts already have demonstrated the diverse and advanced capabilities of, and potential for, MSS/ATC networks offering voice, video, data, and multimedia services, including establishing rapid-response mobile broadband and emergency communications services to support disaster relief and recovery efforts.

2. DISH's Plan And The Resulting Benefits

DISH plans to deploy a hybrid satellite/terrestrial system dedicated to the provision of mobile broadband services. If successful, consumers will be able to use their mobile terminals for high-speed Internet access as well as a myriad of Internet Protocol-based, over-the-top applications, including mobile video. DISH expects that the consumer equipment will include broadband-capable tablet computers, among other devices.³² DISH anticipates offering services both on a stand-alone basis and in a consumer-friendly bundle with its multichannel video services.

DISH is exploring the amount of spectrum and availability of technologies, including the ability to obtain devices operable with DBSD's spectrum, that will be required to launch viable mobile broadband offerings and support the data rates associated with such offerings.³³ A DISH subsidiary also holds licenses for 6 MHz of 700 MHz spectrum (Block E) in 170 of 178 of the

³² Cullen Declaration ¶ 10.

³³ *Id.* ¶ 11.

Basic Economic Areas (“BEAs”) throughout the country.³⁴ As noted above, EchoStar also has a minority interest in the parent company of TerreStar. The ability to combine the DBSD spectrum with additional spectrum in the future would enhance the effectiveness and competitiveness of any mobile broadband services. Taken together, these spectrum assignments, while still paling in comparison to the holdings of incumbent mobile broadband providers, would greatly enhance DISH’s ability to provide high quality services and compete in the provision of mobile broadband services.³⁵

D. The Transaction Will Promote Rather Than Harm Competition

The transaction will create a new competitor and will not harm existing competition, even when taking into account the non-controlling interest in parent company of TerreStar, the other 2 GHz MSS licensee, held by DISH’s affiliate, EchoStar.³⁶ That interest is not detrimental to competition, and it may turn out to spur it. Currently, DBSD provides no significant service to the public, and thus no competitor would be eliminated even if DBSD and TerreStar ever were to combine their resources. In addition, any future combination would create MSS spectrum

³⁴ Manifest Wireless, LLC, the DISH 700 MHz subsidiary, holds the 700 MHz E Block licenses for all of the nation’s BEAs except for New York City, Los Angeles, San Francisco, Boston, Philadelphia, Guam, American Samoa, and the Gulf of Mexico.

³⁵ *Communications Daily*, Dec. 6, 2007 (quoting TerreStar’s former CEO Robert Brumley as saying: “The S-band is underutilized, and if we can make it 40 megahertz, we can make it even more efficient as to products and services”).

³⁶ EchoStar holds a minority interest in TerreStar Corporation, the indirect parent of TerreStar. On February 16, 2011, TerreStar Corporation filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. In addition, EchoStar holds between approximately 45% and 48% of TerreStar’s debt, using a book value valuation methodology. On October 18, 2010, TerreStar and certain other affiliates filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Accordingly, EchoStar may not receive or retain any value on account of certain of its equity interests in TerreStar Corporation or its debt interests in TerreStar.

holdings far below the levels that the Commission evaluated under its *SkyTerra* decision,³⁷ and indeed below the level of the abandoned spectrum cap.³⁸ Nor is EchoStar's acquisition of Hughes relevant to the competitive effects of the present transaction, for the simple reason that Hughes does not provide mobile broadband services.

1. The Transaction Will Introduce Additional Competition

The significant benefits of this transaction, discussed above, are not counterbalanced by any negative effects to competition, in part because DBSD does not provide any services today. Moreover, significant competitive pressure currently exists in each of the services provided by MSS operators – voice, low speed data, and high speed data. The Commission already reached that conclusion when it approved the acquisition of control over SkyTerra (now LightSquared) by Harbinger, an entity that at the time also held interests in two other MSS licensees, TerreStar and Inmarsat. The conclusion holds at least equally true here.

The provision of mobile voice, low-speed data, and high-speed data services is occupied today by four nationwide Commercial Mobile Radio Services (“CMRS”) incumbents, two of which are now proposing to merge.³⁹ Together, these providers boast over 230 million

³⁷ See SkyTerra Communications, Inc. and Harbinger Capital Partners Funds, *Memorandum Opinion and Order and Declaratory Ruling*, 25 FCC Rcd. 3059, 3076-78 ¶¶ 29, 32 (rel. Mar. 26, 2010) (“*SkyTerra Order*”).

³⁸ See 2000 Biennial Regulatory Review; Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, *Report and Order*, FCC 01-328 (rel. Dec. 18, 2001) (raising the cap to 55 MHz immediately and sun-setting it entirely as of January 1, 2003).

³⁹ While not evaluated in *SkyTerra*, terrestrial CMRS providers may also provide some competitive pressure, as the Commission has previously acknowledged them as “imperfect substitutes.” See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 09-66, *Fourteenth Report*, FCC 10-81 ¶¶ 37-38 (rel. May 20, 2010) (“*Wireless Competition Report*”). While the Commission has opted not to include MSS as a current competitor to terrestrial CMRS in its most recent assessment of competition in wireless communications, *see id.*, CMRS providers do

subscribers nationwide as of 2008 and have a commanding presence in mobile voice services nationwide.⁴⁰ Additionally, four MSS providers – Globalstar, Inmarsat, SkyTerra, and Iridium – also offer mobile voice and low-speed data services.⁴¹

Likewise, the provision of high-speed data services is dominated by wireline cable companies and telephony providers. The role of the major CMRS providers in these services is also in the ascendancy and will only expand as “4G” rollouts continue. MSS providers account for a comparatively small share of these services. Presently, Inmarsat is the first mover in MSS broadband.⁴² With its recently granted waiver of the ATC gating requirements,⁴³ LightSquared appears on the verge of becoming a significant competitor as well.⁴⁴ Other satellite providers, such as Globalstar and Iridium, appear to be gearing up to offer broadband services over MSS in the near future.⁴⁵ In sum, all of the services provided by, or to be provided by, MSS operators will be subject to robust competition.

That competition would not be compromised by EchoStar’s minority interest in the parent company of fellow MSS operator TerreStar. Even if the two operators were to be combined as the result of a later transaction, the MSS spectrum of DBSD and TerreStar would

cause downward pressure on MSS two-way voice and high-speed data services, as they are the industry leaders for mobile services generally.

⁴⁰ *Id.* at Table C-4.

⁴¹ *SkyTerra Order*, 25 FCC Rcd. at 3081-82 ¶¶ 42-43.

⁴² *Id.* at 3081 ¶ 42; *see also* Press Release, Inmarsat, Inmarsat Announces \$1.2bn Investment in Next Generation Ka-band Satellite Network (June, 8, 2010), <http://www.inmarsat.com/About/Newsroom/Press/00036066.aspx?language=EN&textonly=False> (announcing further investment in Ka-band satellites to provide satellite broadband).

⁴³ *See* LightSquared Subsidiary LLC, Request for Modification of its Authority for an Ancillary Terrestrial Component, SAT-MOD-20101118-00239, *Order and Authorization*, DA 11-133 (rel. Jan. 26, 2011) (“*LightSquared Order*”).

⁴⁴ *SkyTerra Order*, 25 FCC Rcd. at 3082 ¶¶ 45-47.

⁴⁵ *Id.* at 3083 ¶ 49.

total 40 MHz. That sum is less than the erstwhile 45 MHz spectrum cap, which the Commission abandoned in 2001 in favor of a more flexible approach.⁴⁶ It is also less than half of the 95 MHz CMRS spectrum screen that the Commission now uses as a threshold to determine if a concentration warrants additional competitive inquiry.⁴⁷ It is an even smaller fraction of the spectrum that the large CMRS carriers have at their command in virtually every local market.⁴⁸ Finally, it is significantly less than the spectrum that Harbinger had or was acquiring interests in during the SkyTerra proceeding (as much as 86 MHz), where the Commission concluded that MSS operators were subject to significant competition.⁴⁹

⁴⁶ See 2000 Biennial Regulatory Review; Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, *Report and Order*, FCC 01-328 (rel. Dec. 18, 2001) (raising the cap to 55 MHz immediately and sunsetting it entirely as of January 1, 2003).

⁴⁷ AT&T Inc. and Centennial Communications Corp., *Memorandum Opinion and Order*, 24 FCC Rcd. 13915, 13936 ¶ 46 (2009).

⁴⁸ In its recent application for control of certain Qualcomm spectrum, for example, AT&T claims a per-transaction average of 82 MHz of spectrum available and attributes available holdings of 133.2 MHz, 87.7 MHz, and 50.4 MHz to Sprint, Verizon, and T-Mobile, respectively. See AT&T Mobility Spectrum and Qualcomm Incorporated Seek FCC Consent to the Assignment of Lower 700 MHz Band Licenses, WT Docket No. 11-18, Application of AT&T, Exhibit 1, at 30-31 (filed Jan. 13, 2011).

⁴⁹ *SkyTerra Order*, 25 FCC Rcd. at 3076-77 ¶ 29 (approving a transfer of control that gave Harbinger control over SkyTerra, one of the two L-band operators, in addition to its then extant interest in Inmarsat, the other L-band operator, and its status as the largest shareholder of TerreStar). Subject to coordination with Mexico and Russia under the Mexico City Memorandum of Understanding (“MOU”), LightSquared and Inmarsat can potentially use the entire 66 MHz of the L-band MSS spectrum in a large part of the United States. In fact, LightSquared’s authorization extends to as much of the 66 MHz as it can coordinate. See Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz, the L-band, and the 1.6/2.4 GHz Bands, *Memorandum Opinion and Order and Second Order on Reconsideration*, 20 FCC Rcd. 4616, 4629 ¶ 38 (2005) (“In the L-band, unlike other MSS bands, each MSS operator is licensed for the entire band, but must coordinate with other users of the L-band to determine which channels each MSS operator may use.”). As for TerreStar, its authorization covers 20 MHz in the 2 GHz MSS band.

2. DBSD May Be Able To Compete Against Incumbent CMRS Providers, And Will Certainly Be Disciplined By Them

As noted above, while MSS services are only now developing, they have the potential to compete directly with these existing CMRS providers. As the Commission pointed out in its recent report on competition in CMRS, MSS operators offering “high-speed data services, especially in connection with terrestrial networks using their Ancillary Terrestrial Component (ATC) authority[,] could potentially enhance competition in the provision of mobile terrestrial wireless services.”⁵⁰ Early trials conducted by DBSD suggest that its hybrid MSS/ATC platform may be able to do just that.

Even if DBSD is unable to bring significant competitive pressure to bear upon these legacy operators, the reverse will remain true: CMRS providers constrain the prices MSS operators can charge for their services. The ubiquitous availability of 3G services, and coming near-ubiquity of 4G services, offered by the major CMRS providers means that MSS providers would face direct competition nationwide.

3. Fixed Satellite Broadband Access Is Not A Close Substitute For Mobile Broadband

Nor will EchoStar’s pending application for control of Hughes⁵¹ lead to competitive harm, because Hughes’s fixed satellite broadband access service is not currently a substitute for any mobile services to be provided over DBSD’s spectrum. The services that are offered, or

⁵⁰ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 09-66, *Fourteenth Report*, FCC 10-81 ¶ 37 (rel. May 20, 2010) (“Several MSS providers also have stated plans to offer high-speed data services, especially in connection with terrestrial networks using their Ancillary Terrestrial Component (ATC) authority. Such services in the future could potentially enhance competition in the provision of mobile terrestrial wireless services.”).

⁵¹ See Application of Hughes Communications, Inc. and EchoStar Corporation, for Authority to Transfer Control, SAT-T/C-20110228-0042 (filed Feb. 28, 2011).

could be offered in the future, by MSS and FSS providers are at best only imperfect substitutes for each other.⁵² The two services are fundamentally different: one is a fixed service; the other is a mobile one. MSS spectrum is appropriate for the provision of mobile voice and data applications to be complemented by a mobile terrestrial service at higher data rates, while FSS spectrum is better suited for fixed broadband services at higher data rates than the satellite portion of MSS/ATC service.

IV. REQUEST FOR PERMIT-BUT-DISCLOSE STATUS

The Applicants request that the Commission designate the *ex parte* status of this proceeding as “permit-but-disclose” under the Commission’s rules.⁵³ Doing so will facilitate the development of a complete record and is consistent with Commission decisions in other transactions.⁵⁴

V. CONCLUSION

The transaction complies with all applicable Commission rules and regulations and will serve the public interest. It will enhance competition and save a company from bankruptcy. These public interest benefits are not undermined by any threat, either to any Commission objective or to competition. Consequently, the Applicants respectfully request that the Commission grant the application promptly and provide for any other authority that the Commission finds necessary or appropriate to enable the Applicants to consummate the proposed

⁵² See *SkyTerra Order*, 25 FCC Rcd. at 3080-84 ¶¶ 39, 41 & n.138, 45, 51 (noting that there may be some overlap as “FSS providers are currently able to offer mobile broadband services due to improving antenna pointing capabilities and other technological improvements,” but concluding that “the effectiveness of FSS providers could be limited by the larger size and higher cost of customer equipment, and competition appears to be primarily for large volume users.”).

⁵³ 47 C.F.R. § 1.1206.

⁵⁴ See, e.g., Public Notice, IB Docket No. 08-143, Pleading Cycle Established, DA 08-1659, at 9-10 (rel. July 14, 2008).

transaction. Judge Gerber called this transaction a “win-win” for the company and its creditors in Bankruptcy Court. It is also a win-win for the public and consumers.

Respectfully submitted,

/s/

Peter A. Corea
Vice President, Regulatory Affairs
DBSD North America, Inc. Debtor-in-Possession and New DBSD Satellite Services G.P. Debtor-in-Possession
11700 Plaza America Dr., Suite 1010
Reston, VA 20190
(703) 964-1400

Timothy M. Dozois
Acting General Counsel
ICO Global Communications (Holdings) Limited
2300 Carillon Point
Kirkland, Washington 98033

Cheryl A. Tritt
Phuong N. Pham
Wilkinson Barker Knauer, LLP
2300 N St. NW, Suite 700
Washington, DC 20037
(202) 783-4141
*Counsel for DBSD North America, Inc.
Debtor-in-Possession and New DBSD
Satellite Services G.P. Debtor-in-Possession*

R. Stanton Dodge
Executive Vice President, General Counsel,
Secretary and Director
DISH Network Corporation
100 Inverness Terrace East
Englewood, CO 80112
(303) 706-4000

Jeffrey H. Blum
Senior Vice President, Deputy General Counsel
Alison A. Minea
Corporate Counsel
DISH Network Corporation
1110 Vermont Avenue, NW, Suite 750
Washington, DC 20005
(202) 293-0981

Pantelis Michalopoulos
Christopher Bjornson
Andrew W. Guhr
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
(202) 429-3000
Counsel for DISH Network Corporation

Dated: April 8, 2011

DECLARATION OF THOMAS CULLEN

I, Thomas Cullen, being over 18 years of age, swear and affirm as follows:

1. I make this declaration in support of the application for the transfer of control over the Federal Communications Commission authorizations held by New DBSD Satellite Services G.P. Debtor-in-Possession (“New DBSD DIP”) to DISH Network Corporation (“DISH”) as part of the process to allow New DBSD DIP to emerge from bankruptcy as New DBSD Satellite Services G.P. (“DBSD”), an indirect wholly owned subsidiary of DISH.

2. I am the Executive Vice President of Sales, Marketing and Programming for DISH. I make this declaration based upon personal knowledge, information provided to me, and belief. I will provide a brief description of DISH’s current business and then describe some of the benefits I expect to come from DISH’s acquisition of DBSD.

3. In short, DISH cannot afford to sit still. Its one-way traditional multichannel video programming distribution services are handicapped in competing with bundles of services that include two-way broadband. The mobile broadband services that DISH plans to provide will serve to cure that handicap. DISH anticipates offering mobile broadband services both in a bundle with DISH’s existing services and on a stand-alone basis.

DISH’S INTEREST IN ACQUIRING DBSD

4. Part of our corporate philosophy at DISH is a belief that in order to stay viable, we must constantly improve our products and services. This is why we add channels, introduce innovative technology and invest in customer service.

5. Our market analysis indicates that our customers want and need a broadband component added to the package of the traditional video services we offer. Direct Broadcast Satellites (“DBS”), of course, have only one-way capabilities. Cable systems and phone

companies, on the other hand, offer “triple-play” bundles of video, broadband, and voice. Consequently, to be the best at delivering video, anytime, anywhere, we have been enriching our services. As an example, we offer our customers the ability to view their programming anywhere by using the Slingbox, produced by a subsidiary of our affiliate EchoStar Corporation. The Slingbox brings the home television experience to personal computer and mobile device screens by creating a point-to-point connection between the set-top box in the home and a computing device anywhere in the world. In addition, we offer the DISH Online service, which gives DISH subscribers a single destination on the Internet to access network television content; view authenticated cable network content (*e.g.*, a DISH subscriber to Showtime can access Showtime movies and TV shows online); and control their Digital Video Recorder (*e.g.*, to record a program at home from anywhere in the world). In addition, we have been actively exploring our options for incorporating broadband more organically into our products and services.

6. DBSD’s innovative technology presented us with a broadband acquisition opportunity. We negotiated with the company and then worked through the bankruptcy process to develop a plan that Judge Gerber of the Bankruptcy Court labeled as “a win-win” for everyone involved – the company, the creditors, and DISH.

DISH’S CURRENT BUSINESS

7. DISH is a pioneer and innovator in the satellite and video distribution industries. DISH’s roots reach back more than 30 years when its Chairman, Charles W. Ergen, first entered the satellite television business as a distributor of C-band television satellite systems. DISH’s predecessor in interest received its first DBS construction permit in 1989. Of the more than a dozen entities that obtained such permits, only DISH and one other company have succeeded.

DISH launched its first satellite, EchoStar 1, in December 1995, and began providing service in 1996. Many analysts questioned DISH's ability to reach the 1 million household milestone; yet it vaulted past 1 million subscribers in 1997 and signed up its 14 millionth household in 2009.

8. DISH is now a publicly-traded Fortune 200 company, and consists of the entities that made up the media and entertainment arm of the former EchoStar Communications Corporation, founded in 1980 by Mr. Ergen, Cantey M. Ergen, and Jim DeFranco. The two businesses officially split in 2008, with EchoStar becoming the source for the technology DISH uses to offer TV services. Mr. Ergen has remained the controlling shareholder of both entities. EchoStar has a minority ownership interest in TerreStar Corporation, the parent company of TerreStar Networks Inc. ("TerreStar"), the other 2 GHz Mobile-Satellite Service licensee, which is the subject of another bankruptcy proceeding, and is also a debt investor in TerreStar and TerreStar-affiliated entities.

9. DISH is known as the value leader among all subscription television providers. The company has a reputation for keeping internal costs low in order to pass savings on to subscribers. Additionally, DISH is focused on improving customer service, an investment that has paid off: DISH ranks first in customer satisfaction among all cable and satellite providers according to the 2010 American Customer Satisfaction Index survey results.

BENEFITS FROM THE MERGER AND DISH'S PLAN TO INCORPORATE DBSD INTO DISH

10. DISH's goal is to be the best at delivering video, anytime, anywhere. As noted above, the Slingbox product of DISH's affiliate EchoStar was a natural fit for that goal, complementing the service that DISH provides its subscribers by empowering them to access their programming wherever they are. A mobile broadband service would be another natural complement to DISH's existing service. If successful, consumers will be able to use their mobile

terminals for high-speed Internet access as well as a myriad of Internet Protocol-based, over-the-top applications, including mobile video. DISH expects that the consumer equipment will prominently include broadband-capable tablet computers, among other devices.

11. DISH is exploring the amount of spectrum and availability of technologies, including the ability to obtain devices operable with DBSD's spectrum, that will be required to launch a viable mobile broadband offering and support the data rates associated with such an offering. A DISH subsidiary also holds licenses for 6 MHz of 700 MHz spectrum (Block E) in 170 of 178 of the Basic Economic Areas ("BEAs") throughout the country. As noted above, EchoStar also has a minority interest in the parent company of TerreStar. The ability to combine the DBSD spectrum with additional spectrum in the future would enhance the effectiveness and competitiveness of any mobile broadband services. Taken together, these spectrum assignments, while still paling in comparison to the holdings of incumbent mobile broadband providers, would greatly enhance DISH's ability to provide high quality services and compete in the provision of mobile broadband services.

12. We believe the acquisition of DBSD is an important step in our continuing efforts to compete and provide consumers with the services and products they want and need.

The foregoing declaration has been prepared using facts of which I have personal knowledge or upon information provided to me. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief. Executed on April 8, 2011.

A handwritten signature in black ink, appearing to read 'Thomas Cullen', written over a horizontal line.

Thomas Cullen
Executive Vice President
Sales, Marketing and Programming

DECLARATION OF DAVID ZUFALL

I, David Zufall, being over 18 years of age, swear and affirm as follows:

1. I make this declaration in support of the application for the transfer of control over the Federal Communications Commission (“FCC”) authorizations held by New DBSD Satellite Services G.P. Debtor-in-Possession (“New DBSD DIP”) to DISH Network Corporation (“DISH”) as part of the process to allow New DBSD DIP to emerge from bankruptcy as New DBSD Satellite Services G.P. (“DBSD”), an indirect wholly owned subsidiary of DISH.

2. I am Senior Vice President for DBSD, and oversee network systems.

3. I make this declaration based upon personal knowledge, information provided to me, and belief. I will provide a brief description of DBSD’s Mobile Satellite Service (“MSS”) system in furtherance of deploying a hybrid mobile broadband system using its MSS and Ancillary Terrestrial Component (“MSS/ATC”) authority and its hybrid satellite/terrestrial capabilities.

4. In April 2008, DBSD successfully launched the geostationary-orbit MSS satellite G1, operating in the 2010-2020 MHz and 2180-2190 MHz bands. The G1 satellite employs a two-way ground based beam forming (“GBBF”) system to support hybrid MSS/ATC services. The G1 S-band phased-array antenna, combined with GBBF, provides the DBSD system with the capability to adjust communication beam size, shape, location, power, frequency assignments, and protocol employed – all from the ground. G1’s advanced antenna design along with innovative GBBF technologies will enable DBSD to implement multiple air interface protocols in unique and different ways.

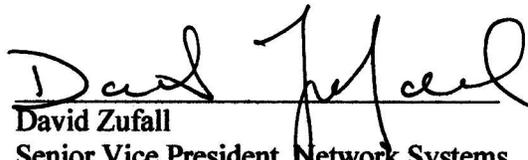
5. DBSD has invested hundreds of millions of dollars to design, build, launch and support its fully-functioning and licensed MSS system. DBSD has conducted trials with its

MSS/ATC system to test hybrid satellite/terrestrial architectures and coverage models, while also demonstrating certain service capabilities of MSS/ATC systems.

6. DBSD undertook an early initiative in 2007 to launch a development program with Qualcomm to demonstrate that satellite communication technology could be integrated efficiently into standard cellular chipsets and devices. DBSD unveiled the resulting Qualcomm-developed Enhanced Geostationary Air Link (“EGAL” or “Satellite-EVDO”) technology using a system composed of a chipset emulation platform operating together with a standard cell phone radio and antenna at the CTIA Wireless Show in 2009. This development led to an arrangement with Qualcomm and other MSS operators to commercialize this technology and, in the process, create a common platform that has the potential to reduce costs for, and enhance the competitiveness of, the entire MSS/ATC industry.

7. DBSD has been instrumental in developing a standards approach for technology development in the S-band to provide equipment needed to support competitive consumer services. For example, EGAL is based on the 3GPP2 framework, and full EGAL standardization is virtually complete, paving the path to integration with terrestrial 3GPP (*e.g.*, LTE and UMTS) or 3GPP2 (*e.g.*, CDMA and EVDO/HRPD). Specifically, the core technologies required for integration of EGAL and terrestrial LTE operation exist today. DBSD, together with TerreStar, has led efforts in 3GPP to standardize the baseline design for how LTE can be optimally deployed terrestrially in the S-band. DBSD is actively working through the standards process with vendors and carriers to ensure that S-band LTE equipment can be produced using industry standard practices.

The foregoing declaration has been prepared using facts of which I have personal knowledge or upon information provided to me. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief. Executed on April 8, 2011.


David Zufall
Senior Vice President, Network Systems
DBSD North America Inc.

ATTACHMENT 1

RESPONSE TO FCC FORM 312, QUESTION 40, AND SCHEDULE A, QUESTION A20

OWNERSHIP AND CORPORATE OFFICERS AND DIRECTORS

OWNERSHIP

DISH Network Corporation is a publicly-traded Nevada corporation. The stockholders owning of record and/or voting 10 percent or more of the voting stock of DISH Network Corporation include:

Ownership Interest	Citizenship	Approx. Equity Interest¹	Approx. Voting Interest¹
Charles W. Ergen ² Chairman, President and CEO DISH Network Corporation 9601 South Meridian Blvd. Englewood, CO 80112	USA	53.6%	90.5%
Goldman Sachs Asset Management L.P. ³ 200 West Street New York, NY 10282	USA	12.2%	0.97%

¹ As of March 7, 2011.

² Includes both Class A common stock and Class B common stock ownership. Class B common stock is owned through several trusts. Mr. Ergen is deemed to own beneficially all of the Class A Shares owned by his spouse, Cantey M. Ergen. Mr. Ergen's beneficial ownership includes: (i) 478,302 Class A Shares; (ii) 19,026 Class A Shares held in the Corporation's 401(k) Employee Savings Plan (the "401(k) Plan"); (iii) the right to acquire 1,180,000 Class A Shares within 60 days upon the exercise of employee stock options; (iv) 235 Class A Shares held by Mr. Ergen's spouse; (v) 1,466 Class A Shares held in the 401(k) Plan by Mrs. Ergen; (vi) 20,130 Class A Shares held as custodian for Mr. Ergen's children; (vii) 27,000 Class A Shares held by a charitable foundation for which Mr. Ergen is an officer and (viii) 234,190,057 Class A Shares issuable upon conversion of Mr. Ergen's Class B Shares. Mr. Ergen has sole voting and dispositive power with respect to 149,183,340 shares. Mr. Ergen's beneficial ownership of Class A Shares excludes 4,245,151 Class A Shares issuable upon conversion of Class B Shares held by certain trusts established by Mr. Ergen for the benefit of his family.

³ Includes Goldman Sachs Asset Management, L.P., ("Goldman Sachs") and GS Investment Strategies, LLC. Of the Class A Shares beneficially owned, Goldman Sachs has shared voting power as to 23,130,386 Class A Shares and shared dispositive power as to 25,058,399 Class A Shares. The foregoing information is based solely upon a Schedule 13G filed by Goldman Sachs with the SEC on February 14, 2011.

CORPORATE OFFICERS AND DIRECTORS⁴
DISH Network Corporation

Executive Officers:

Charles W. Ergen	President and Chief Executive Officer
Roger Lynch	Executive Vice President, Advanced Technologies
Bernard L. Han	Executive Vice President and Chief Operating Officer
Robert E. Olson	Executive Vice President and Chief Financial Officer
R. Stanton Dodge	Executive Vice President, General Counsel and Secretary
W. Erik Carlson	Executive Vice President, Operations
Thomas A. Cullen	Executive Vice President, Sales, Marketing and Programming
James DeFranco	Executive Vice President
Michael Kelly	Executive Vice President, Commercial and Business Development
Stephen Wood	Executive Vice President, Human Resources

Board of Directors:

Charles W. Ergen	Chairman
Carl E. Vogel	
James DeFranco	
David K. Moskowitz	
Cantey M. Ergen	
Steven R. Goodbarn	
Gary S. Howard	
Tom A. Ortolf	

DISH Operating L.L.C.

Executive Officers:

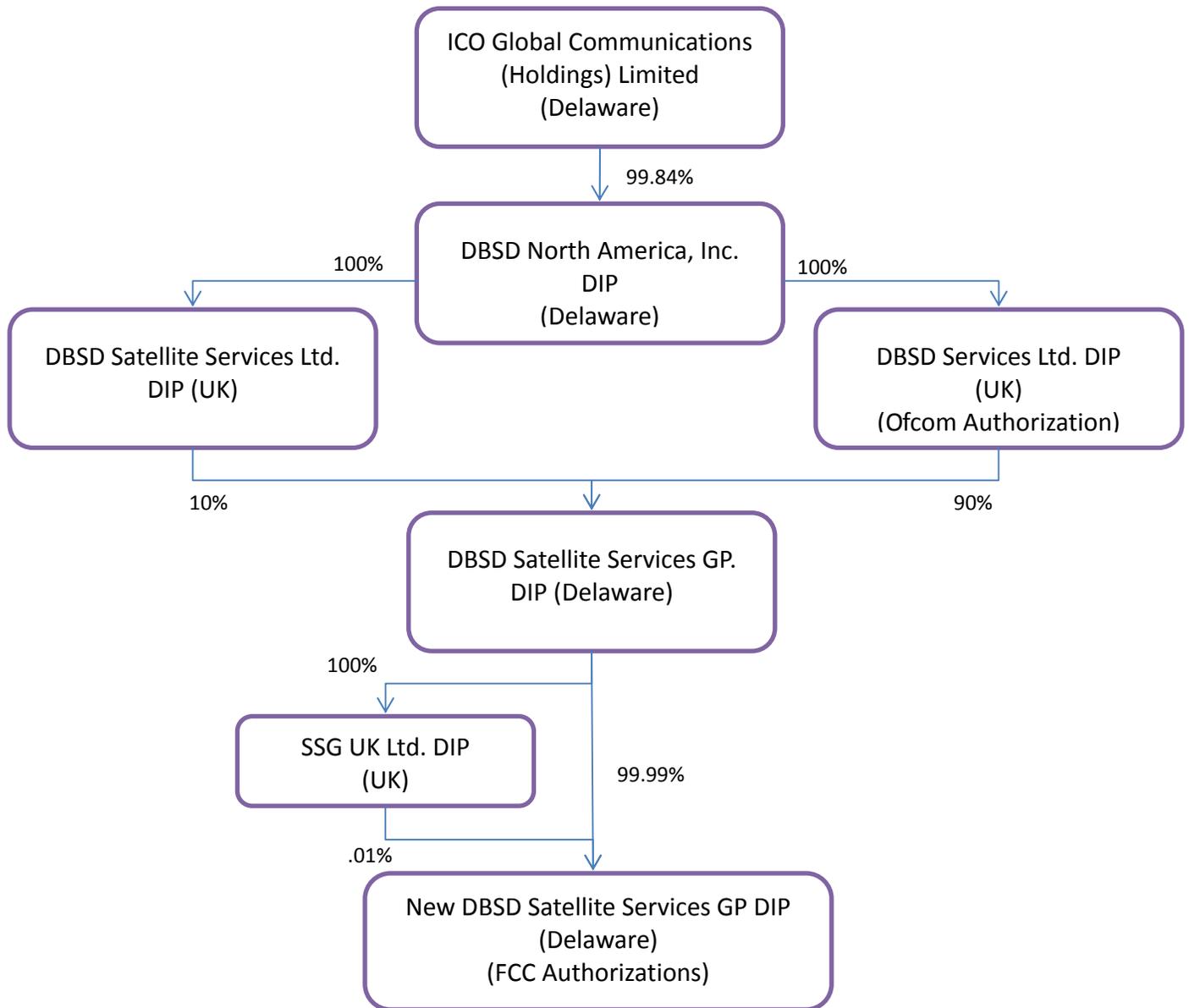
Charles W. Ergen	President and Chief Executive Officer
James DeFranco	Executive Vice President
R. Stanton Dodge	Executive Vice President, General Counsel and Secretary

Board of Directors:

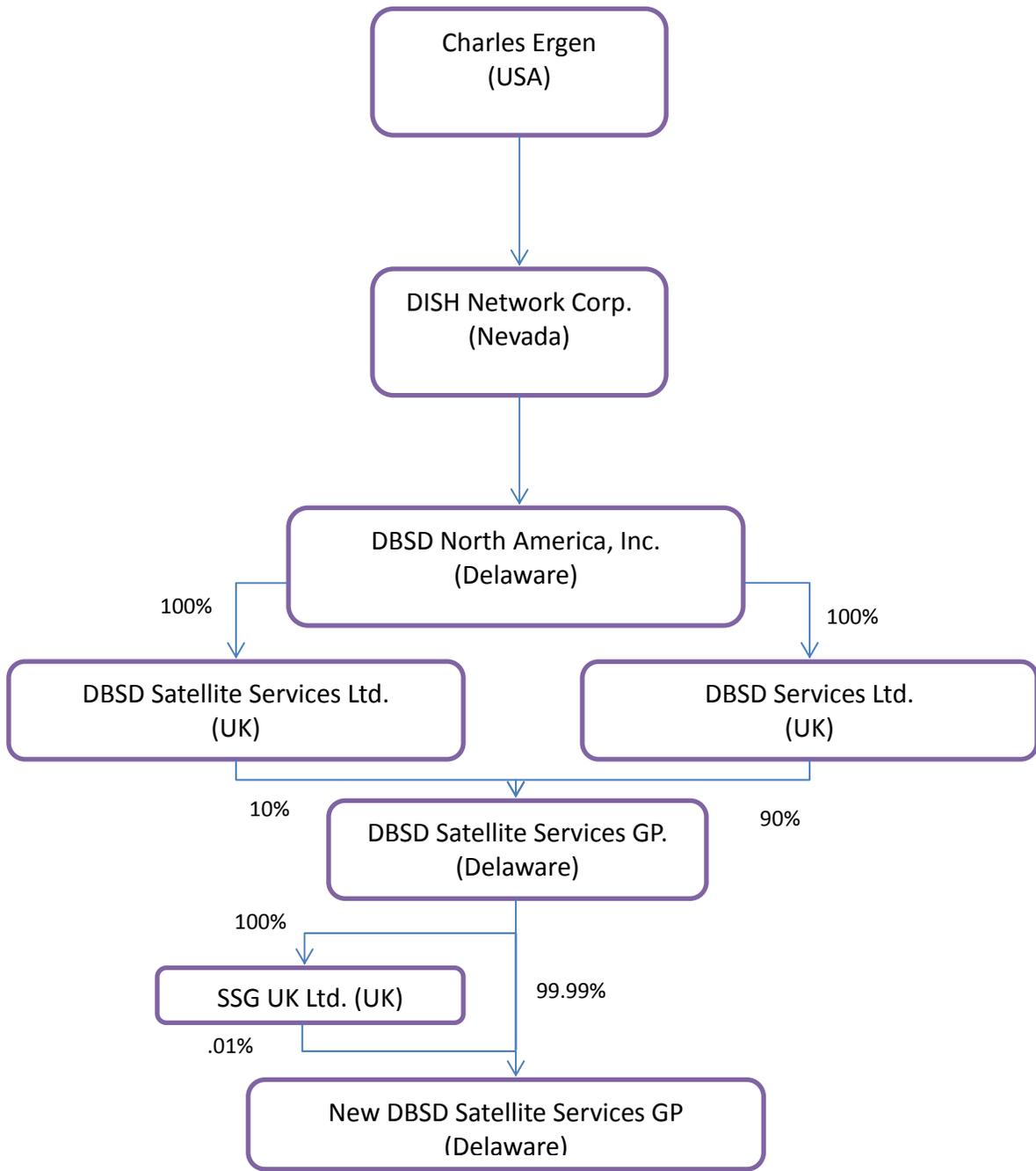
Charles W. Ergen	Chairman
James DeFranco	
R. Stanton Dodge	

⁴ The address for all officers and directors of DISH Network Corporation and DISH Operating L.L.C. is 9601 South Meridian Blvd., Englewood, CO 80112.

DBSD North America, Inc. – Corporate Structure Pre-Transaction



DBSD North America, Inc. – Corporate Structure Post-Transaction



ATTACHMENT 2

RESPONSE TO FCC FORM 312 – QUESTION 36

In a *Memorandum Opinion and Order* released May 16, 2002, the Satellite Division of the International Bureau cancelled two conditional construction permits held by affiliates of the applicant DISH Network Corporation (f/k/a EchoStar Communications Corporation) (“DISH”) for 22 channels at the 175° W.L. orbital location.¹

By an *Order* released July 1, 2002, the International Bureau cancelled DISH’s license for a Ka-band satellite system and dismissed a related modification application filed by DISH.² On November 8, 2002, the International Bureau reinstated DISH’s license for a Ka-band system as well as the related modification application.³

In a *Memorandum Opinion and Order* released April 29, 2004, the International Bureau denied, in part, four applications filed by DISH to operate GSO FSS satellites using the Ka and/or Extended Ku-bands at the 83° W.L., 105° W.L., 113° W.L., and 121° W.L orbital locations.⁴ DISH’s petition for reconsideration of this decision was denied.⁵

In a *Memorandum Opinion and Order* released August 3, 2004, the International Bureau declared null and void the space station authorization held by VisionStar, a DISH affiliate, for use of the Ka-band at the 113° W.L. orbital location.⁶

By letter dated May 19, 2005, the International Bureau denied DISH’s applications for a Fleet Management Modification and for a Special Temporary Authority to move the EchoStar 4

¹ See EchoStar Satellite Corporation, Directsat Corporation, Direct Broadcasting Satellite Corporation, Consolidated Request for Additional Time to Commence Operation, *Memorandum Opinion and Order*, DA 02-1164 (rel. May 16, 2002).

² See EchoStar Satellite Corporation; Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service, *Memorandum Opinion and Order*, DA 02-1534 (rel. July 1, 2002).

³ See EchoStar Satellite Corporation; Application for Authority to Construct, Launch, and Operate a Ka-band Satellite System in the Fixed-Satellite Service, *Memorandum Opinion and Order*, DA 02-3085 (rel. Nov. 8, 2002).

⁴ See EchoStar Satellite LLC, Applications for Authority to Construct, Launch, and Operate Geostationary Satellites in the Fixed-Satellite Service Using the Ka and/or Extended Ku Bands at the 83° W.L., 105° W.L., 113° W.L., and 121° W.L orbital locations, *Memorandum Opinion and Order*, DA 04-1167 (rel. Apr. 29, 2004).

⁵ See EchoStar Satellite LLC, Petition for Reconsideration, Applications for Authority to Construct, Launch, and Operate Geostationary Satellites in the Fixed-Satellite Service Using the Ka and/or Extended Ku Bands at the 83° W.L., 105° W.L., 113° W.L., and 121° W.L orbital locations, *Memorandum Opinion and Order*, DA 06-865 (rel. Apr. 14, 2006).

⁶ See VisionStar, Inc., Application for Modification of Authority to Construct, Launch and Operate a Ka-Band Satellite System in the Fixed Satellite Service, *Memorandum Opinion and Order*, DA 04-2449 (rel. Aug. 3, 2004).

satellite to 61.5° W.L., pending the Commission's consideration of another DISH request to move the satellite to 77° W.L., on the grounds that the purpose of the proposed fleet management modification was not consistent with the purposes of the Commission's rules and that there were no extraordinary circumstances for the grant of temporary authority.⁷

In a *Memorandum Opinion and Order* released June 3, 2005, the International Bureau denied DISH's application for a Special Temporary Authority to move the EchoStar 4 satellite to 77° W.L. on the grounds that DISH had failed to establish extraordinary circumstances for the grant of such authority.⁸ However, the International Bureau later granted partial reconsideration of this order and then granted DISH's request to move the satellite to 77° W.L. where it would operate pursuant to Mexican authority.⁹

⁷ See Letter from Thomas S. Tycz, Chief, Satellite Division, International Bureau, FCC, to Pantelis Michalopoulos, Counsel to EchoStar Satellite L.L.C., DA 05-1405 (May 19, 2005).

⁸ See EchoStar Satellite L.L.C., Application for Special Temporary Authority to Conduct Telemetry, Tracking and Command Operations During the Relocation of EchoStar 4 to the 77° W.L. Orbital Location, *Memorandum Opinion and Order*, DA 05-1581 (rel. Jun. 3, 2005).

⁹ See EchoStar Satellite L.L.C., Application for Special Temporary Authority to Conduct Telemetry, Tracking and Command Operations During the Relocation of EchoStar 4 to the 77° W.L. Orbital Location, *Order on Reconsideration*, DA 05-2067 (rel. Jul. 25, 2005); EchoStar Satellite L.L.C., Application for Special Temporary Authority to Conduct Telemetry, Tracking and Command Operations During the Relocation of EchoStar 4 to the 77° W.L. Orbital Location, *Order and Authorization*, DA 06-868 (rel. Apr. 18, 2006).