April 17, 2020

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Viasat, Inc. Response to Ex Parte Submission of CTIA, IBFS File Nos. SAT-PDR-20161115-00120 and SAT-APL-20180927-00076

Dear Ms. Dortch:

On behalf of Viasat, Inc., this letter responds to the ex parte submission of CTIA on April 16, 2020 in the above-referenced proceedings,1 as permitted under Section 1.1206(b)(2)(iv) of the Commission’s rules.2

The Commission should summarily reject CTIA’s submission. The application at issue has been pending at the Commission since 2016, and CTIA has never raised any objection to the application until now. Lying in wait for almost four years, until the eve of the Sunshine Period, to weigh in as a party is an abuse of the Commission’s processes and should not be countenanced. That is reason enough to disregard CTIA’s eleventh-hour effort to sandbag the Commission and Viasat with the laundry list of items in its letter.3

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3 See Verizon & AT&T, Inc. v. FCC, 770 F.3d 961, 968 (D.C. Cir. 2014) (upholding the Commission’s decision to decline to consider a proposal in an ex parte filed “so late . . . it had insufficient time to evaluate it” and reaffirming that “the FCC is not obliged to consider late-filed proposals” (citation omitted)).
Even if that were not the case, this last-minute ambush attempt is based on unsubstantiated and fanciful scenarios. For instance, CTIA asserts the outlandish presumption, without any analysis or support, that satellite-to-satellite communications noted in the application would somehow cause interference with respect to purely terrestrial operations, and urges the Commission to revise the ordering clauses to add an express denial of Viasat’s request for authority for satellite-to-satellite communications. To begin with, such a revision is not consistent with the text of the Draft Order; contrary to CTIA’s claim, the Draft Order leaves the issue open and simply declines to grant such authority at this time. Viasat’s ability to operate satellite-to-satellite transmissions is merely conditioned upon the submission of a demonstration of compatibility with GSO space stations.

In that vein, Viasat does not object to the addition of language also indicating that these transmissions cannot begin until Viasat also submits an analysis confirming compatibility with respect to terrestrial operations. Given that these spacecraft would be many, many miles above the earth, Viasat does not anticipate that there would be any difficulty whatsoever in showing that transmissions directed upward from these satellites toward GSO spacecraft at a higher altitude (i.e., away from Earth) would not increase interference to a terrestrial transmitter on the ground.

Other proposals in CTIA’s submission are similarly unsupported and without merit. CTIA’s proposal to add references to the actions of “other administrations” in paragraphs 52(f) and 52(i) is nonsensical, as the entire premise of Viasat’s market access application is that the whole system is suitably authorized by another administration, as specified in Viasat’s application. CTIA’s proposal to revise paragraph 52(h) to make it contingent on future ITU

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4 See CTIA Letter at 2-4.
6 Additionally, CTIA’s listing of the bands that will be used by Viasat’s system and are included in the Upper Microwave Flexible Use Service (“UMFUS”) is simply incorrect as a factual matter. See CTIA Letter at 2 n.2. The actual frequencies in Viasat’s market access application that are shared with UMFUS are as follows: 27.5-28.35 GHz, 37.5-40 GHz, 47.2-48.2 GHz and 50.4-51.4 GHz. UMFUS operations are not permitted in the 17.8-18.6 GHz, 18.8-19.3 GHz, 19.7-20.2 GHz, 28.35-29.1 GHz, 29.5-30 GHz, 40.0-42.0 GHz, or 48.2-50.2 GHz bands, as suggested by CTIA.
7 See CTIA Letter at 3-4.
proceedings\(^9\) is flawed as well; while the Commission sometimes conditions authorizations on the outcome of further domestic proceedings, there is no basis for conditioning a grant of domestic authority on the outcome of a future, to-be-determined international treaty process which the Commission may or may not adopt in its own rules.

Finally, CTIA’s proposal to add a reference to paragraph 51(j) to operations in the 37.5-40 GHz band “provid[ing] interference protection” to terrestrial services is redundant and unwarranted, because Viasat would be subject to the appropriate condition on PFD limits in paragraph 51(k).\(^{10}\) The Commission has already recognized that the PFD limits applicable to the 37.5-40 GHz band—which have been in place since 2003—provide the requisite interference protection to terrestrial operations.\(^{11}\)

For these reasons, CTIA’s proffered revisions to the Draft Order are entirely unfounded and should be rejected.

Please contact the undersigned if you have any questions regarding this submission.

Respectfully submitted,

/s/
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cc:   Erin McGrath
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\(^9\) See CTIA Letter at 3-4.

\(^{10}\) See Draft Order ¶ 51(k) (citing 47 C.F.R. § 25.208(r)(1)).

\(^{11}\) 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, Second Report and Order, 18 FCC Rcd 25428 ¶ 24 (2003).