



June 8, 2022

BY ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, DC 20554

Re: *IBFS File Nos. SES-LIC-20210803-01360 and SES-LIC-20210803-01361; ELS File No. 0190-EX-CN-2022; WT Docket No. 20-443 and GN Docket No. 17-183*

Dear Ms. Dortch:

In its haste to manufacture a claim against SpaceX, DISH Network Corporation (“DISH”) (hopefully erroneously) criticizes SpaceX for taking steps to respond to requests from a Ukrainian government official by enabling mobile operations in a war-torn country.¹

Specifically, as part of its argument about service to mobile platforms in the United States, DISH criticizes SpaceX CEO Elon Musk for responding to the Ukrainian Vice Prime Minister’s request for ideas “to keep Starlinks & life-saving services online” *in Ukraine*.² As shown in the tweet replicated below, Mr. Musk explained the steps SpaceX was taking to enable mobile service in Ukraine, thousands of miles from the nearest DISH subscriber in the United States. While one can hope that DISH made this condemnation in error, these tactics nonetheless highlight the lengths to which DISH will go so long as the Commission inexplicably leaves the 12 GHz proceeding open. To stop DISH from continuing these harmful tactics—and to stop DISH from callously draining the Commission’s limited resources away from more productive purposes—the Commission must expeditiously reject DISH’s arguments, grant SpaceX’s pending earth station in motion (“ESIM”) applications,³ and terminate the rulemaking that encourages DISH and others to submit such baseless filings.⁴

¹ See Letter from Pantelis Michalopoulos to Marlene Dortch, IBFS File Nos. SES-LIC-20210803-01360, SES-LIC-20210803-01361; ELS File No. 0190-EX-CN-2022; WT Docket No. 20-443 and GN Docket No. 17-183, at 4 n.12 (June 7, 2022) (“DISH June 7 Ex Parte”) (citing Elon Musk (@elonmusk), Twitter (Mar. 3, 2022, 12:50PM ET), <https://twitter.com/elonmusk/status/1499442132402130951>).

² Mykhailo Fedorov (@FedorovMykhailo), Twitter (March 2, 2022, 1:37 PM ET), <https://twitter.com/FedorovMykhailo/status/1499091570292834304>.

³ See Application for Blanket Licensed Earth Stations in Motion, IBFS File No. SES-LIC-20210803-01360 (July 30, 2021); Application for Blanket Licensed High Performance Earth Stations in Motion, IBFS File No. SES-LIC-20210803-01361 (Aug. 3, 2021).

⁴ See *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 36 FCC Rcd. 606 (2021).

← Tweet



Mykhailo Fedorov ✓ @FedorovMykhailo · Mar 2



🇺🇦 Ukraine government official

@elonmusk @SpaceX @SpaceXStarlink many thx! Starlink keeps our cities connected and emergency services saving lives!

With Russian attacks on our infra, we need generators to keep Starlinks & life-saving services online - ideas? @Honda @ChampionGen @westinghouse @DuroMaxPower



🗨 687

🔄 5,199

❤ 32.3K



Elon Musk ✓
@elonmusk



Replying to @FedorovMykhailo @SpaceX and 5 others

Updating software to reduce peak power consumption, so Starlink can be powered from car cigarette lighter.

Mobile roaming enabled, so phased array antenna can maintain signal while on moving vehicle.

12:50 PM · Mar 3, 2022 · Twitter for iPhone

7,552 Retweets 1,714 Quote Tweets 55.9K Likes

DISH's latest stunt is sadly just a misguided attempt to draw attention away from SpaceX's recent demonstration that DISH has both failed to meet its deployment requirements in the 12 GHz band and misled the Commission about that failure.⁵ As part of its effort to distract, DISH has filed two ex parte letters in which it has seized upon a small handful of disparate tweets and online posts to manufacture a claim against SpaceX—even though, as with the Ukrainian tweet, it is not at all clear that DISH has taken the time to make sure that these materials even relate to operations in the United States.⁶ While DISH's letters are muddled and confusing, they seem to allege that a hypothetical person could take unrelated tweets to jump to the conclusion that SpaceX is encouraging that person to use Starlink terminals in motion, even though—as DISH itself is forced to admit—no one from SpaceX encouraged anyone to use their terminal in such a fashion and that use is expressly prohibited in SpaceX's Terms of Service. In fact, DISH's claims are so specious that every time it tries to assert that SpaceX has exceeded its authorizations, it must also admit that SpaceX is currently authorized to do exactly what it is doing.

In addition to DISH's fanciful use of Twitter and low opinion of American consumers, DISH also must depend on a recycled theory of interference that the Commission unanimously rejected when DISH tried to prevent SpaceX from implementing a safety upgrade to its system.⁷ Despite the fact that SpaceX has been operating in this band for almost two years without incident, DISH claims that SpaceX's 12 GHz operations will now somehow cause harmful interference to its dwindling Direct Broadcast Satellite ("DBS") subscriber base. Yet, DISH's threatening letters have little to do with interference to DBS and everything to do with its effort to antagonize licensees actually serving Americans using spectrum DISH hopes to appropriate for itself.⁸

DISH's first letter was based primarily on two tweets. The first was issued by Mr. Musk and stated: "Starlink does work on vehicles in motion, including planes, but not yet reliably."⁹ This followed a tweet from the previous day in which Mr. Musk had said, "Yes, I am testing Starlink on the plane. Some polishing needed, but it's working quite well."¹⁰ DISH tries to imply something untoward about Mr. Musk's use of a Starlink antenna from a corporate aircraft,¹¹ yet recognizes in this same discussion that SpaceX has an experimental authorization to test up to five

⁵ See Letter from Jameson Dempsey to Marlene H. Dortch, WT Docket No. 20-443 and GN Docket No. 17-183; ULS File No. 0008735875 (June 1, 2022).

⁶ See DISH June 7 Ex Parte; Letter from Pantelis Michalopoulos to Marlene Dortch, IBFS File Nos. SES-LIC-20210803-01360, SES-LIC-20210803-01361, SES-LIC-20210309-00698, and SES-AMD-20210731-01295; ELS File No. 0190-EX-CN-2022, Attachment (May 31, 2022) ("DISH May 31 Ex Parte").

⁷ See *Space Exploration Holdings, LLC*, 36 FCC Rcd. 7995, ¶¶ 37-40 (2021).

⁸ See MVDDS 5G Coalition Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service, Docket No. RM-11768 (Apr. 26, 2016) (calling for the Commission to remove NGSO systems from the 12 GHz band to hand mobile rights to MVDDS licensees).

⁹ Elon Musk (@elonmusk), Twitter (May 24, 2022, 9:18 AM ET), <https://twitter.com/elonmusk/status/1529089543969943553>.

¹⁰ Elon Musk (@elonmusk), Twitter (May 23, 2022, 7:06 PM ET), <https://twitter.com/elonmusk/status/1528875120093286401>.

¹¹ DISH May 31 Ex Parte, Attachment at 5-6.

ESIMs on its corporate aircraft.¹² While DISH’s CEO may not test his company’s products before selling them to consumers, this failure is no basis for calling into question Mr. Musk’s rigorous testing, which falls squarely within the authorization that even DISH recognizes as valid.

The second tweet targeted by DISH was issued over six hours after the first by a separate Twitter account (for SpaceX itself) and announced that “Starlink for RVs is available now wherever Starlink has coverage, and users can check the availability map for service areas before hitting the road.”¹³ DISH then tries to conflate these separate tweets by separate accounts to leap to the conclusion that the American public would not have the common sense to read their plain meaning individually.¹⁴

DISH’s accusation is completely baseless, as its lawyers’ own letter demonstrates. Even as DISH claims that SpaceX does not explicitly tell users that mobile services are not allowed, it must recognize that SpaceX’s customer agreement prominently states: “IN-MOTION USE PROHIBITED.”¹⁵ DISH then claims the American public does not have the aptitude to understand whether the new RV service can be used while in motion, while also recognizing that the SpaceX website specifically states that “Starlink for RVs is not designed for use while in motion.”¹⁶

The baselessness of DISH’s argument is amply demonstrated by the fact that third parties had no problem understanding that mobile use is not allowed. To take just a few examples:

- “Note that this isn’t designed to be used by RVs in motion; it’s intended for use while you’re stationary at parking spots, camping grounds and RV parks during your trip.”¹⁷
- “One important thing to note for those looking into the RV option is that they can’t use Starlink while in motion at this time.”¹⁸
- “The new option will not be able to be used while the vehicle is in motion and service is not guaranteed.”¹⁹

¹² See *id.* Attachment at 6 n.21 (citing Space Exploration Holdings, LLC, Call Sign WM2XNK, ELS File No. 0190-EX-CN-2022 (granted May 26, 2022)).

¹³ SpaceX (@SpaceX), Twitter (May 24, 2022, 3:51 PM ET), <https://twitter.com/SpaceX/status/1529188236781793280>.

¹⁴ See DISH May 31 Ex Parte, Attachment at 2.

¹⁵ DISH May 31 Ex Parte, Attachment at 3 (quoting Starlink Pre-Order Agreement ¶ 6, <https://www.starlink.com/legal/documents/DOC-1020-91087-64?regionCode=US> (last visited May 27, 2022)).

¹⁶ DISH May 31 Ex Parte, Attachment at 4 (quoting Starlink for RVs, <https://www.starlink.com/rv> (last visited May 27, 2022)).

¹⁷ Darrell Etherington, *Starlink adds RV plan that provides roving coverage*, TechCrunch (May 24, 2022), <https://techcrunch.com/2022/05/24/starlink-adds-rv-plan-that-provides-roving-coverage/>.

¹⁸ M. Moon, *Starlink launches satellite internet for RVs that costs \$25 more*, Engadget (May 24, 2022), <https://www.engadget.com/starlink-satellite-internet-rv-080542776.html>.

¹⁹ Grace Kay & Brittany Chang, *SpaceX’s Starlink launches \$135-a-month internet service for RVs*, Business Insider (May 23, 2022), <https://www.businessinsider.com/spacex-starlink-launches-rv-internet-service-2022-5>.

- “SpaceX emphasizes that the internet service won't be active for users who are on the move, and coverage will be provided on an ‘as-needed basis at any destination where Starlink provides active coverage.’”²⁰
- “Starlink also says it does ‘not support Starlink use in motion at this time,’ and warns customers that using the service on the move will void the limited warranty on their kit.”²¹
- “SpaceX's Starlink now lets you take the service on the road, but don't expect to work while you're driving.”²²
- “The latest press release says that the internet service would be inactive when the RV is in motion as it hits the road.”²³

Clearly, a wide range of publications understood that this RV service is not for use while in motion. Tellingly, the only evidence DISH could initially find to support its claims is a YouTube video posted *two months before the announcement* of the new RV service and involved a driver located in Canada, not the United States.²⁴

Perhaps realizing the weakness of its argument, in its second letter DISH casts a wider net in its search for scraps to support its case. Here again, DISH was able to come up with scant online postings claiming to have experimented with mobile use, most of which predated SpaceX's announcement of its RV service—a fact that severs the linkage DISH found so crucial in its first letter.²⁵ In addition, DISH failed to carefully examine what little evidence it was able to find. For example, DISH cites a Reddit post saying “Dishy on a boat. Traveling at 9 knots.”²⁶ However, it fails to mention the first comment posted in response:

Starlink in motion voids your warrenty stated by starlink customer service and stated by Elon musk, also you probably will get an email that your dish is in motion, some other customer got an email stating starlink in motion voids warrenty²⁷

²⁰ Chris Young, *SpaceX expands its Starlink service for RV users. But it's an extra \$25 monthly*, Interesting Engineering (May 24, 2022), <https://interestingengineering.com/spacex-starlink-service-for-rvs>.

²¹ Jason Rainbow, *Starlink's RV service lets users jump the line – for a price*, Space News (May 24, 2022), <https://spacenews.com/starlinks-rv-service-enables-lets-users-jump-the-line-for-a-price/>.

²² Liam Tung, *SpaceX Starlink for RVs has arrived, here's what you need to know*, ZDNet (May 24, 2022), <https://www.zdnet.com/home-and-office/networking/spacexs-starlink-for-rvs-has-arrived-heres-what-you-need-to-know/>.

²³ TeeJay, *SpaceX Starlink for RV Launches – What's the Price to Get It ASAP?*, iTechPost (May 23, 2022), <https://www.itechpost.com/articles/110856/20220523/spacex-starlink-satellite-internet-rv-spacex-starlink-rv-starlink-rv-internet-price.htm>.

²⁴ See DISH May 31 Ex Parte, Attachment at 5 (citing DRIVING with Starlink - MOBILE ROAMING at 80 MPH!, YouTube (Mar. 13, 2022), <https://www.youtube.com/watch?v=8PDVURcvWeg&t=357s>).

²⁵ See DISH June 7 Ex Parte at 2-4 and nn.2-11.

²⁶ See DISH June 7 Ex Parte at 3 (citing u/juniorbomber, *Dishy on a boat. Travelling at 9 knots.*, Reddit (May 30, 2022), https://www.reddit.com/r/Starlink/comments/v1fnse/dishy_on_a_boat_travelling_at_9_knots).

²⁷ Comment by TrueIngenuity7141, Reddit (May 31, 2022), https://www.reddit.com/r/Starlink/comments/v1fnse/dishy_on_a_boat_travelling_at_9_knots.

Moreover, while DISH claims that SpaceX has “proclaimed from the mountaintops of social media” the “unfortunate exhortations” encouraging subscribers to use their antennas on mobile platforms,²⁸ it could point only to the molehills of two tweets from Mr. Musk. The first, as discussed above, relates to enabling mobile services in Ukraine at the request of a government official to help overcome infrastructure damage inflicted by the Russian invasion. The second simply states that mobile Starlink services are not currently available but hopefully will become available in the future.²⁹ These supposed “exhortations” would hardly drive a movement.

The Commission should put a quick end to DISH’s feeble publicity stunts. DISH has made clear that it will continue these time-wasting antics so long as the Commission fails to close the 12 GHz proceeding or to grant SpaceX’s applications to provide high-throughput, low-latency broadband service to American consumers in motion. Otherwise, the Commission should expect its inaction will enable a continuing stream of similar filings to clog the dockets of ongoing proceedings as DISH and its MVDDS allies cling to their dreams of a spectrum windfall at the expense of next-generation satellite customers.

Sincerely,

/s/ David Goldman

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²⁸ DISH June 7 Ex Parte at 5.

²⁹ *See id.* at 4 (citing Elon Musk (@elonmusk), Twitter (Apr. 15, 2021 7:44PM ET), <https://twitter.com/elonmusk/status/1382842277719003136>).