



August 31, 2021

BY ELECTRONIC FILING

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

Re: *IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105*

Dear Ms. Dortch:

This letter is in response to the latest familiar tactics by Kuiper Systems LLC (“Amazon”) to delay a competitor, this time by claiming that Space Exploration Holdings, LLC (“SpaceX”) provided the Commission too much information about its next-generation constellation. Amazon’s recent missive is unfortunately only the latest in its continuing efforts to slow down competition, while neglecting to resolve the Commission’s concerns about Amazon’s own non-geostationary orbit (“NGSO”) satellite system. The Commission should see through these efforts and quickly put SpaceX’s application out for public comment where any issues can be fully vetted.

The Commission issued an order in July 2020 informing Amazon that it had not provided sufficient information about how its proposed system would protect others from interference or meet the Commission’s rules for orbital debris.¹ But while Amazon has filed nothing with the Commission to address these conditions on its own license for nearly 400 days, it took only 4 days to object to SpaceX’s next-generation NGSO system.² In fact, Amazon has not had a single meeting with the Commission this year about how it intends to resolve the Commission’s interference or safety concerns, but it has had 15 meetings in that same span just about SpaceX. While Amazon has waited 15 months to explain how its system works, it has lodged objections to SpaceX on average about every 16 days this year.

In its latest effort, Amazon is attempting to prevent the Commission from even releasing for public comment an amendment to SpaceX’s application for its next-generation system, alleging that SpaceX has provided more information than necessary in its application. SpaceX’s revised system will leverage the full capabilities of SpaceX’s powerful Starship rocket to launch advanced satellites that can complement the first-generation constellation SpaceX is currently deploying, which has begun to deliver truly high-speed, low-latency broadband across the United States—including to the most remote corners and Polar Regions of the country that too often get left behind. In its recent amendment, SpaceX provided complete information for a proposed orbital configuration for its constellation, as well as a mutually exclusive alternative—an approach

¹ See *Kuiper Systems LLC Application for Authority to Deploy and Operate a Ka-band Non-Geostationary Satellite Orbit System*, Order and Authorization, 35 FCC Rcd. 8324, ¶¶ 59a, 64 (2020).

² See Letter from Mariah Dodson Shuman to Marlene H. Dortch, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (Aug. 25, 2021) (“Amazon Ex Parte”) (covering meeting on August 24, 2021).

familiar to many satellite operators from its use by the International Telecommunication Union. While the orbital parameters differ slightly, neither configuration requires additional spectrum, neither will result in additional interference to other proposed NGSO systems, and both will comply with the Commission's rules to the same extent as its current constellation.

Yet even before the Commission could seek comment on the proposed amendment, Amazon filed a procedural objection and asked the Commission to dismiss the application. The Commission should recognize this delay tactic for what it is—a continuation of efforts by the Amazon family of companies to hinder competitors to compensate for Amazon's failure to make progress of its own. Amazon's maneuvering is familiar to anyone who has watched Amazon or its sister companies.³ While SpaceX has proceeded to deploy more than 1,700 satellites, Amazon has yet to even attempt to address the radiofrequency interference and orbital debris issues that must be resolved before Amazon can deploy its constellation. Amazon's track record amply demonstrates that as it falls behind competitors, it is more than willing to use regulatory and legal processes to create obstacles designed to delay those competitors from leaving Amazon even further behind. These games unfortunately have real consequences for consumers, who are not only denied service because of Amazon's creeping development, but also lose access to faster moving competition.

In this case, Amazon argues that the amendment should be dismissed because it provides information on SpaceX's preferred configuration as well as an alternative. Amazon alleges that SpaceX's application somehow fails the Commission's requirement for "completeness," yet it does not identify any required information that SpaceX failed to provide with respect to its proposal for either of these configurations. Rather, Amazon argues that the application "leav[es] nearly every major detail unsettled"⁴—even though all relevant parameters are meticulously set forth in the application for both configurations. Indeed, SpaceX provided technical analyses to demonstrate that neither configuration would cause unacceptable interference to other NGSO and or terrestrial systems operating in the band—including Amazon—and also updated the orbital debris analysis for both configurations. In effect, Amazon makes the odd argument that the application is incomplete because it provides too much information.

Amazon complains that even asking it to evaluate these showings would be an unfair burden.⁵ Yet Amazon strains credulity by suggesting it lacks the resources to analyze SpaceX's application, especially considering Amazon routinely brings as many as six lobbyists and lawyers to its many meetings with the Commission about SpaceX. Commenters (including Amazon) have had no difficulty submitting analyses of SpaceX applications in the past, with the most recent case attracting nearly 200 pleadings and yielding several pages of footnotes in the granting order just to list them.⁶

³ See, e.g., Sissi Cao, "Blue Origin's Messy Fight With NASA Is Actually Delaying US Moon-Landing Effort," *Observer* (Aug. 20, 2021), <https://observer.com/2021/08/blue-origin-nasa-lawsuit-delay-spacex-moon-lander-contract/>.

⁴ Amazon Ex Parte at 2.

⁵ See Amazon Ex Parte at 2.

⁶ See *Space Exploration Holdings, LLC Request for Modification of the Authorization for the SpaceX NGSO Satellite System*, 36 FCC Rcd. 7995, ¶ 5 and nn.23-36 (2021).

Amazon next makes the conclusory statement that if the Commission were to accept SpaceX's amendment, it would "encourage speculative applications" and fail to "ensure that the applicant is ready and willing to construct the satellite it proposes in its application."⁷ But Amazon cannot explain how providing information to the Commission about an alternative configuration would encourage speculation. In fact, one would normally expect Amazon to welcome flexibility, given how much Amazon has struggled to address the fundamental shortcomings the Commission identified in its own speculative proposal and the fact that it has not even selected launch providers for all of its satellites. By contrast, SpaceX has launched over 1,700 satellites in just over three years since it received its NGSO authorization and serves over 100,000 customers, alleviating any doubt that SpaceX intends to deploy a next-generation constellation. As SpaceX explained in its application, it would prefer to deploy Configuration 1, but provided information about a second option depending on the timing of development of the satellites and launch vehicle for which SpaceX has exercised radical transparency. The Commission no doubt would have the wherewithal and sophistication to distinguish an actual system like SpaceX's from an application that is merely a pretext.

SpaceX has submitted complete information on its proposed next-generation constellation, satisfying every information requirement in the Commission's rules. Amazon would clearly prefer to use procedural maneuvers to delay consideration of that application rather than allow it to proceed to consideration on the merits. As Amazon's former Chief Executive has said in the past, procedural maneuvers—like the ones Amazon now deploys—have "become the bigger bottleneck than the technology."⁸ The Commission should recognize this gambit for the obstructionist tactic that it is, reject Amazon's request, and quickly put the amendment out for public comment.

Sincerely,

/s/ David Goldman

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⁷ Amazon Ex Parte at 2.

⁸ Eric Berger, "Here's why Blue Origin thinks it is justified in continuing to protest NASA," Ars Technica (Aug. 16, 2021), <https://arstechnica.com/science/2021/08/heres-why-blue-origin-thinks-it-is-justified-in-continuing-to-protest-nasa/>.