



May 10, 2013

Douglas Bell
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

**Re: Transatlantic Trade and Investment Partnership
Comments of EchoStar Corporation, Docket USTR-2013-0019**

Dear Mr. Bell:

This letter provides the comments of EchoStar Corporation (“EchoStar”) on the proposed Transatlantic Trade and Investment Partnership (“TTIP”) agreement, in response to your request for written comments of March 20, 2013 (“TTIP Notice”). The proposed TTIP will address a key market for telecommunications services, the European Union. EchoStar is a U.S. corporation and the fourth largest commercial satellite operator in the world, providing a wide variety of services in the United States and elsewhere, including broadband and direct broadcast satellite (“DBS”) services. Accordingly, EchoStar has a substantial interest in ensuring that there is fair and non-discriminatory market-access available for it to offer its service globally, including in the European Union.

EchoStar urges the Office of the United States Trade Representative (“USTR”) to make telecommunications services, including satellite services, an important part of the TTIP agreement. U.S. Companies like EchoStar are global leaders in telecommunications services, but continue to face trade barriers in many foreign markets, including in some cases, the European Union. These barriers include in country physical facility requirements, the threat of additional fees, a lack of clear and transparent foreign processes, and opaque homologation / type approval requirements. Removal of these telecommunications market barriers should be a pre-eminent goal of U.S. trade policy, because open telecommunications markets are crucial to achieving the substantial benefits of rapidly-evolving information technologies and networks.¹

I. TO PROMOTE U.S. ECONOMIC GROWTH AND BROADBAND EXPANSION, THE USTR TTIP AGREEMENT SHOULD INCLUDE ROBUST COMMITMENTS TO SATELLITE TECHNOLOGY.

¹ The “information” sector (including telecommunications and publishing) provided 4.3% of U.S. GDP in 2011 (U.S. Bureau of Economic Analysis (“BEA”) News Release 12-51, Table 5 (Nov. 13, 2012)), or about \$675 billion when applied to 2012 estimated GDP (BEA News Release 13-02, Table 3 (Jan. 30, 2013)). Information technologies are also crucial to driving productivity and U.S. competitiveness in other sectors.

The satellite industry has a substantial impact on the global economy. In 2011 the satellite industry generated \$177.3 billion in revenue, a 5 percent increase from the previous year.² On average, with U.S. companies like EchoStar leading the way, satellite industry revenue has expanded at an average rate of 9 percent since 2006.³ As a result, satellite industry growth has exceeded that of the telecommunications and space industries.⁴

If USTR abstains from including satellite services among their TTIP agreement recommendations, USTR's actions would directly conflict with U.S. space policy. As noted by the Obama Administration, "the benefits of space permeate almost every facet of our lives."⁵ In recognition of this fact, in the National Space Policy of the United States, the Obama Administration included among its guiding principles a commitment to "encouraging and facilitating the growth of a U.S. commercial space sector that supports U.S. needs, is globally competitive, and advances U.S. leadership. . . ."⁶ USTR should ensure that the TTIP agreement reflects this policy.

As the U.S. continues its commitment to global space leadership, the USTR should encourage the removal of foreign market entry barriers. For satellite services, the United States should generally be willing to open its own market fully, consistent with U.S. law, in order to achieve maximum foreign market opening.

II. THE TTIP AGREEMENT SHOULD LIMIT IN-COUNTRY PHYSICAL FACILITY REQUIREMENTS TO SITUATIONS IN WHICH THEY ARE NECESSARY FOR LEGITIMATE TECHNICAL REASONS OR NATIONAL SECURITY PURPOSES.

TTIP should inhibit burdensome structural requirements that do not enhance satellite performance or ameliorate national security concerns. Some countries require telecommunications licensees to build specific physical facilities (*e.g.* earth stations) in their territory, even where not technically required for the operation of the licensed network. This unnecessary requirement augments the cost of providing satellite services and impedes the

² Satellite Industry Association, *State of the Satellite Industry Report*, at 5 (Sept. 2012), available at <http://www.sia.org/wp-content/uploads/2012/06/Final-2012-State-of-Satellite-Industry-Report.pdf> (last accessed Apr. 18, 2013).

³ *Id.*

⁴ *Id.* at 6. See also, Staff Writers, Space Daily, *Satellite Industry Growth to Continue Despite Challenging Environment* (Feb. 8, 2012) (stating that, the satellite industry will experience growth for the next ten years), available at http://www.spacedaily.com/reports/Satellite_Industry_Growth_To_Continue_Despite_Challenging_Environment_99.html (last accessed Apr. 18, 2012).

⁵ See National Space Policy of the United States, at 1 (June 28, 2010), available at http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf (last accessed Apr. 19, 2013)

⁶ *Id.* at 3.

expansion of broadband technology. Accordingly, EchoStar urges the TTIP to protect against such requirements.

III. SATELLITE SERVICE PROVIDERS SHOULD NOT BE SUBJECTED TO NEW SPECTRUM AUCTIONS OR FEES.

TTIP commitments should not include provisions that encourage the implementation of new auctions or additional market-based spectrum fees on communications satellites or satellite services. USTR imposition of auctions would make it difficult for the President to adhere to his obligation to oppose international satellite auctions in bilateral and multilateral fora, as required by the Open-Market Reorganization for the Betterment of International Telecommunications Act (“ORBIT Act”).⁷ Moreover, as a result of soaring spectrum fees that would likely ensue, consumers of satellite services would face higher prices and ultimately, less choice among competing providers.

IV. THE TTIP AGREEMENT SHOULD ENCOURAGE FOREIGN NATIONS TO DEVELOP TRANSPARENT PROCESSES THAT ENABLE SATELLITE SERVICE PROVIDERS TO OBTAIN INFORMATION NEEDED TO MAKE WELL INFORMED BUSINESS DECISIONS.

Foreign nations’ unwillingness to make critical documents and information readily available often impairs the ability of U.S. satellite companies to effectively engage in foreign regulatory processes. To the maximum extent practical, telecommunications regulatory documents and communications should be public and transparent. Public information should include: (i) preliminary and final rules; (ii) licenses; (iii) license applications; (iv) oppositions and other correspondence about licenses (including correspondence between the applicant/licensee and regulator); (v) other determinations and decisions; and (vi) enough information on radio-communications systems to evaluate the potential for harmful interference from and into them. Through this standard, satellite service providers will be able to accelerate implementation of foreign market satellite technologies, and therefore, further their contributions to the U.S. economy.

EchoStar appreciates that some documents may include confidential company information, which may appropriately be withheld from the public. Therefore, where necessary, countries should adopt procedures requiring a public version of any such document containing confidential information.

⁷ See 47 U.S.C. § 765(f) (West 2013) (stating the president shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such service).

**V. THE TTIP AGREEMENT SHOULD ENSURE THAT EQUIPMENT
REGISTRATION AND CONFORMITY REQUIREMENTS ARE TRANSPARENT,
READILY AVAILABLE, AND ACHIEVABLE.**

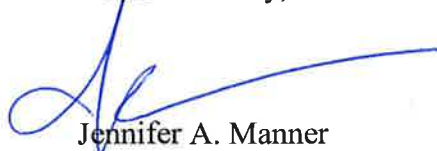
Foreign nations should agree to eliminate ineffective and unnecessarily arduous “homologation” or “type approval” processes. In many countries, sale of telecommunications equipment requires that the manufacturer or distributor obtain a certificate of “homologation” or “type approval” to national standards. These processes are often opaque, complex, confusing or even proprietary, making approvals difficult to obtain or arbitrary. The TTIP agreement should only permit homologation / type approval requirements and processes that are transparent, clear and publicly-available.

VI. Conclusion

EchoStar appreciate the opportunity to comment on this critically important trade negotiation. EchoStar views the European Union as a significant market of telecommunications services. However, for EchoStar to be able to compete in this market successfully, it is critical that the afore-mentioned trade barriers be addressed.

Please do not hesitate to contact us with any questions on these comments. We would welcome the opportunity to discuss these issues further with USTR.

Yours sincerely,



Jennifer A. Manner