Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Space Bureau Opens New Docket to Explore EchoStar Corporation's Use of 2 GHz MSS Spectrum	)	SB Docket No. 25-173
	)	
Monitoring DISH's Compliance with Conditions Granting an Extension of Time to Complete Construction of Facilities and Buildout Commitments	)	WT Docket No. 22-212
	)	
EchoStar Construction Milestone Extension Request	)	Lead Call Signs WQXK340, WQTX200, T070272001, T060430001, WQJY944, WQWQ558, WQZM232 and WQWQ819

COMMENTS OF INCOMPAS

INCOMPAS respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") public notices[1] seeking comment on EchoStar Corporation's 5G buildout deadlines and its use of the 2000-2020 MHz and 2180-2200 MHz bands ("2 GHz band") for mobile-satellite service ("MSS").[2]

I. INTRODUCTION AND SUMMARY

INCOMPAS, the internet and competitive networks association, is the leading trade association advocating for competition and innovation in the broadband marketplace,

[1] Public Notice, *Wireless Telecommunications Bureau Seeks Supplemental Comment on VTEL's Petition for Reconsideration of the Extension of Construction Deadlines for Certain Licenses Held By EchoStar Corporation*, WT Docket No. 22-212, DA 25-404 (May 12, 2025) ("Buildout Public Notice"); Public Notice, *Space Bureau Opens New Docket to Explore EchoStar Corporation's Use of 2 GHz MSS Spectrum*, SB Docket No. 25-173, DA 25-405 (May 12, 2025) ("MSS Public Notice").

[2] *See* 47 C.F.R. § 1.46.

representing new network builders, internet innovators, and the world's leading video streaming and cloud services. INCOMPAS is unique among trade associations in that we represent the entire internet value chain, including leaders at the intersection of artificial intelligence technologies, energy, and broadband infrastructure. Our competitive broadband companies are building networks of the future, including fiber, fixed wireless, mobile (5G), and satellite networks that connect residences, businesses, and community anchor institutions.[3] We also represent online content companies that are investing significantly in network infrastructure and delivering streaming, cloud, social media, and other online content, services, and goods to meet consumer and business needs across the globe.[4] The association works to ensure that competitive communications and technology providers can continue to deliver better service and greater innovation to consumers, businesses, government agencies, and local communities seeking more choice, lower prices, and faster broadband speeds that attract jobs and private investment.

EchoStar's efforts to create and deploy an Open Radio Access Network ("Open RAN") underscore the transformative potential of competitive communications and technology providers in reshaping the broadband landscape. As a trade association committed to fostering a dynamic and innovative telecom ecosystem, we view EchoStar's Open RAN initiative as a

[3] EchoStar is a member of INCOMPAS. A full list of INCOMPAS members is available online at https://membership.incompas.org/memberlist.asp?contentid=2109.

[4] *See* Analysys Mason, *The Impact of Tech Companies' Network Investment on the Economics of Broadband ISPs* (Oct. 2022) (finding that (1) content and application providers ("CAPS") spent $883 billion on internet infrastructure from 2011 to 2021, and (2) from 2018-2021, CAPs increased their digital infrastructure investment over 50%, and spent an annual investment of more than $120 billion each year on this infrastructure.), *available at* https://incompas.org/wp-content/uploads/2024/10/FINAL-Analysys-Mason-Report-Impact-of-tech-companies-network-investment-on-the-economics-of-broadband-ISPs-compressed.pdf.

critical step toward a more open, interoperable, and cost-efficient wireless infrastructure.[5] By embracing cloud-native, 5G Open RAN architecture, EchoStar is not only enhancing its capacity to deliver faster, more reliable broadband, but also driving down deployment costs and reducing barriers for new entrants. This fosters a more competitive market that benefits consumers, businesses, government agencies, and local communities through increased choice, lower prices, and enhanced digital services. Such innovation is essential to attracting private investment, fueling economic growth, and ensuring that America remains at the forefront of next-generation connectivity.

Despite the substantial progress that EchoStar has made in the deployment of its Open RAN wireless network as the first Trump administration's choice to compete as a national wireless carrier, the Commission has chosen to initiate an investigation into the company's construction milestones and use of its spectrum assets in the 2 GHz band. As explained below, now is not the time for the Commission to reconsider the buildout obligations that EchoStar recently negotiated with the agency in a manner entirely consistent with long-standing FCC precedent. These obligations reflect a carefully calibrated balance between regulatory expectations and the operational realities of deploying next-generation services in the 2 GHz band as well as its assets in the Lower 700 MHz E Block, 600 MHz, AWS-3, and AWS H block. EchoStar, like other competitive providers, has made substantial strategic and financial

[5] As advocates for competition, innovation, and economic development, INCOMPAS has argued that EchoStar's purchase of Boost Mobile in the T-Mobile-Sprint merger will benefit the wireless market and help consumers get the services they need. *See* Masha Abarinova, *T-Mobile's Acquisition of Sprint Passes Muster, But 16 States Press On in Opposition*, BROADBAND BREAKFAST (Nov. 15, 2019), https://broadbandbreakfast.com/t-mobiles-acquisition-of-sprint-passes-federal-muster-but-16-states-press-on-in-opposition/ (citing comments of INCOMPAS Chief Advocate and General Counsel Angie Kronenberg that the merger will allow EchoStar to develop its own 5G wireless network).

commitments based on these terms—commitments that are crucial not just for its business, but for delivering faster, more affordable, and more resilient broadband services to communities across the country.

Revisiting these obligations would undermine regulatory certainty and threaten to disrupt ongoing investments in advanced network infrastructure, including EchoStar's important work to integrate Open RAN and satellite capabilities. This uncertainty would not only deter capital investment but also stall innovation, ultimately hurting consumers and communities that depend on competitive alternatives to the dominant broadband incumbents. EchoStar and other forward-looking providers are leading the charge to foster competition and help the United States lead on 5G. Their ability to plan, deploy, and scale depends on consistent, predictable regulatory frameworks not shifting goalposts.

Furthermore, opening the 2 GHz band to new entrants at this juncture would severely damage EchoStar—the exclusive licensee since 2012—which is actively building out critical national infrastructure. The band is a rare asset in the MSS space, uniquely positioned to support hybrid satellite-terrestrial networks that can bring connectivity to remote regions, improve network resiliency, and bolster national emergency response capabilities. EchoStar's work at standards to prepare this spectrum for direct-to-device functionality is already advancing these public interest goals. Allowing new entrants into the band, before the full potential of these efforts has been realized, risks massive interference, but also a setback in our collective ability to deliver robust, competitive broadband nationwide.

The FCC should remain focused on policies that encourage sustained investment and innovation from companies that have demonstrated their commitment to delivering results. Competitive providers like EchoStar are expanding the boundaries of what's possible in

American communications. Moving the regulatory goalposts midstream would send exactly the wrong signal not just to EchoStar, but to every challenger working to bring more choice, lower prices, and better connectivity to the American people.

II. THE COMMISSION'S INVESTIGATION INTO ECHOSTAR'S BUILDOUT EXTENSIONS IS UNJUSTIFIED AND COULD HARM THE COMPANY'S EFFORTS TO COMPETE IN A CONCENTRATED MOBILE MARKET

The Buildout Public Notice asks if the Wireless Telecommunications Bureau "should reconsider its decision to grant an extension of the construction deadlines for certain licenses held by EchoStar."[6] The public notices raise important policy questions pertaining to the rights of licensees to their spectrum and the Commission's authority to impinge upon those rights. The Commission's interest in racing to "develop a more fulsome record" is quite curious given that the agency just completed the public comment process for the Petition for Reconsideration of VTel Wireless, Inc. opposing the FCC's extension of time and that it received limited comment with the exception of the petitioner, SpaceX, and One Ministries, Inc.[7] Given the limited opposition, INCOMPAS contends that the Commission's reexamination of the extensions the agency granted EchoStar for its construction deadlines is unnecessary, and more importantly, harmful to EchoStar's efforts to complete its 5G Open RAN network in accordance with the Commission's approval. INCOMPAS therefore urges the Commission to promptly deny VTel's Petition for Reconsideration as well as reiterate its support for EchoStar's efforts to compete against long-established incumbents in a concentrated mobile market.

[6] Buildout Public Notice at 2.

[7] Letter from Keith J. Leitch, President and Engineer, One Ministries, Inc. (KQSL), to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-212 (Sept. 25, 2024) (accusing EchoStar of not carrying religious full power television stations on its Sling TV service).

As INCOMPAS explained in response to VTel's Petition for Reconsideration, at the time of its negotiations with the FCC, EchoStar made a strong and compelling case for its extension request and the WTB rightfully granted it based upon its ample authority and the extensive and detailed filing that meets the extension requirements.[8] The extension request required complex and detailed negotiations[9] and was an exchange of longer milestones for some licenses, on the one hand, and, accelerated and expanded milestones for some licenses on the other.[10] The negotiations applied to each of the five types of licenses in EchoStar's spectrum portfolio, including AWS-4, Lower 700 MHz E Block, 600 MHz, AWS-3, and AWS H Block licenses. EchoStar agreed to commitments to accelerate and expand buildout nationwide—commitments it has kept—as well as several commitments to advance the public interest, including pricing and device commitments that will benefit all consumers and inject new competition into the wireless market. Promoting and enabling a fourth nationwide provider is critical to enhancing

[8] *See* Letter from Angie Kronenberg, President, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WT Docket No. No. 22-212 (filed Oct. 31, 2024).

[9] *See* Buildout Public Notice at 1 ("On September 17, 2024, EchoStar submitted a request that the Commission extend the construction milestones associated with certain of its AWS-4, Lower 700 MHz E Block, 600 MHz, AWS3, and AWS H Block licenses contingent upon the terms of commitments set forth in the request.").

[10] Letter from Jeffrey Blum, EchoStar, to Joel Taubenblatt, FCC, WT Docket No. 22-212 (Sept. 18, 2024), attaching Letter from Jeffrey Blum, EchoStar, to Joel Taubenblatt, FCC, Re: Construction Milestone Extension Request (Sept. 17, 2024) ("These new commitments will ensure that: (a) EchoStar's Open RAN network covers over 80% of the United States population by the end of 2024 (representing 30 million more pops than its 2023 70% commitment); (b) the Final Milestones for over 500 EchoStar licenses will be accelerated and expanded (the "Accelerated Markets"); (c) EchoStar will offer a nationwide affordable 5G plan and device to consumers; (d) EchoStar will deploy 24,000 towers by June 14, 2025 (9,000 more towers than its 15,000 2023 tower obligation); (e) EchoStar's network will be 3GPP Release 17 compliant by June 14, 2025 (two releases beyond its Release 15 commitment); (f) EchoStar will load at least 75% of new subscribers with compatible devices on its MNO network in the Accelerated Markets; and (g) small carriers and tribes will be able to lease EchoStar's spectrum in the license areas subject to an extension.").

competition. With the contingent extensions, EchoStar is now better positioned to use its spectrum assets to grow its market share, gain subscribers, and offer consumers the benefits of a competitive mobile broadband marketplace, including lower prices, better service, and greater coverage on its network.

Without EchoStar's commitment to Boost Mobile and the effort and resources the company has put into deploying its 5G Open RAN network, INCOMPAS concludes the Commission would not have granted the extension of the construction deadline. By incumbent standards, EchoStar's growth and commitment to becoming a nationwide wireless provider has been accelerated. This is due in part to the company's critical investment in spectrum resources. EchoStar has spent over $30 billion on spectrum and has participated in every FCC spectrum auction since 2008, generating billions in revenue for critical government telecommunications priorities and the U.S. Treasury. These strategic investments were intended to position the company to take advantage of a major paradigm shift in technology—standalone, cloud-native 5G.

EchoStar's Open RAN wireless network now offers 5G broadband to over 80% of the U.S. population (268 million Americans) and has activated over 24,000 nationwide cell sites, meeting mid-2025 infrastructure goals ahead of schedule. The company has also expanded local market buildouts, accelerating final buildout milestones in over 500 specific license areas by the end of last year. These milestones follow aggressive 5G commitments that the company met and the FCC certified in 2023. This investment and dedication to the development of the network has allowed Boost Mobile to add new subscribers and gain recognition for its 5G network quality. Boost Mobile has approximately 7.15 million subscribers and the company added 90,000 subscribers in Q4 2024 and 150,000 subscribers in Q1 2025, marking a significant

improvement from previous periods. With respect to its service, EchoStar's network was recently named the most reliable in New York City and has also been rated #1 in 5G reliability and coverage across 15 major U.S. cities.[11] Every indicator for Boost Mobile shows a service that is growing despite being a new entrant in a mature U.S. wireless market and having less time than the incumbents to establish and advertise its network.

Chairman Carr has talked at length about the need to encourage competition to improve connectivity and explained that competition and innovation are vital to deliver optimal outcomes for the American public. In this instance, the Commission cannot simply pay lip service to competition; it should honor the extensions that it granted to EchoStar so that the company can seek the resources and investment it needs to continue the development of its next-generation Open RAN 5G wireless network. Already the Commission's actions have cast doubts on Open RAN investment and raised concerns that the agency may not be treating EchoStar's network as the national strategic asset it can be (particularly given the fact that EchoStar's network was built using primarily American vendors).[12]

The Commission's consideration of other measures or actions with respect to EchoStar's licenses also seemingly walks back two of the first Trump administration's primary justifications

[11] *See* Chris Thomas, *Don't chirp now, but Boost Mobile's NYC network just beat the Big 3 carriers*, ANDROID POLICE (Jan. 27, 2025), https://www.androidpolice.com/boost-mobile-leads-all-carriers-nyc-performance-reliability/ (citing data from umlaut's 2024 Audit Report of New York City).

[12] *See* Tim McDonald, *Is the FCC Trying to Kill Open RAN? Chairman Carr's Letter to EchoStar Sends a Dangerous Signal*, SYNTHETIC WISDOM (May 15, 2025), https://trmcdonald.substack.com/p/is-the-fcc-trying-to-kill-open-ran?r=5pguq&utm_medium=ios&triedRedirect=true (explaining that EchoStar's network, as the only large scale Open RAN deployment in the Western Hemisphere, "demonstrates that America can build telecom infrastructure without relying on Chinese vendors or outdated proprietary systems" and send the message "the U.S. is serious about sovereignty in telecom").

for approving the T-Mobile-Sprint merger: (1) that EchoStar's acquisition of Boost Mobile could launch a fourth nationwide wireless competitor and presumably drive down costs for consumers, and (2) that the company's Open RAN network would assist in trade and national security efforts to confront China. The administration continues to correctly insist that "the federal government must become an early adopter and avid promoter of American technology."[13] Open RAN architecture is faster to deploy, more resilient, more secure, upgradeable over time, and less expensive than legacy wireless technologies, making it a viable and attractive alternative to China's Huawei and ZTE. As such, the Commission should follow the Administration's lead and make every effort to encourage its development and usage by maintaining the extended construction deadlines.

INCOMPAS urges the Commission to refrain from taking punitive or restrictive measures against EchoStar at this critical juncture for its Open RAN build. EchoStar is well-positioned to fulfill these extended FCC commitments and also represents the most significant injection of new infrastructure-based competition into the wireless market in over a decade. Premature or excessive regulatory action risks undermining these gains, potentially chilling future investment and innovation. At a time when the American wireless market remains highly concentrated, the FCC should prioritize fostering sustainable competition and consumer choice by supporting EchoStar's continued development as a competitive, national alternative.

[13] *See* Michael Kratsios, Remarks at Endless Frontiers Retreat (Apr. 14, 2025), available at https://www.whitehouse.gov/articles/2025/04/remarks-by-director-kratsios-at-the-endless-frontiers-retreat/.

III. ECHOSTAR IS ACTIVELY USING ITS AWS-4 SPECTRUM FOR MSS WITH INTENTIONS TO MAKE MORE INTENSIVE USE OF THE BAND FOR DIRECT-TO-DEVICE SERVICES

In the MSS Public Notice, the FCC seeks comment "on steps the Commission might take to make more intensive use of the 2 GHz band, including but not limited to allowing new MSS entrants in the band."[14] INCOMPAS strongly supports EchoStar's continued use of its AWS-4 spectrum for both MSS and terrestrial mobile broadband deployment through its innovative Open RAN 5G network. The AWS-4 band, designated for MSS in 2012, plays a critical dual role in supporting EchoStar's integrated network strategy delivering resilient satellite coverage while enabling a next-generation terrestrial 5G deployment that enhances nationwide connectivity. Preserving the current use of this spectrum aligns with the FCC's longstanding commitment to maximizing spectrum efficiency and promoting competitive network architectures that serve the public interest.

EchoStar's Open RAN deployment using AWS-4 spectrum represents a transformative shift in the wireless ecosystem, one that encourages vendor diversity, drives down costs, and enhances cybersecurity through modular, software-defined networks. This model breaks away from legacy, proprietary systems dominated by a few large vendors and opens the door for more agile, U.S.-based suppliers and innovators. Limiting EchoStar's use of AWS-4 spectrum or allowing new MSS entrants in the band would jeopardize this progress and risk undermining a critical avenue for increasing competition and network resilience, two of the FCC's top priorities in the evolving 5G landscape.

[14] MSS Public Notice at 2.

In the lead up to the Public Notices, SpaceX has made misleading statements on the facts and technical realities of the AWS-4 spectrum band and EchoStar's use of it for MSS. This represents the fourth occasion in which SpaceX has made attempts to gain control of EchoStar's 2 GHz band, with the Commission denying the three previous efforts. These denials were all based on technical data the Commission has long acknowledged—that, without same-operator planning and coordination, MSS operations in the 2 GHz AWS-4 band are incompatible with terrestrial 5G services.[15] That evidence is directly relevant to the MSS Public Notice and INCOMPAS urges the Commission to incorporate it in this review.[16] As the FCC has confirmed repeatedly with this band, EchoStar is the only provider capable of managing interference between its terrestrial network and MSS operations. Adding a new MSS provider would thus cause massive interference with devastating results for EchoStar's nationwide 5G Open RAN wireless network of which AWS-4 is a key band.

Perhaps more concerning, is that SpaceX has encouraged the Commission to walk back decades of precedent on how the FCC determines buildout compliance. SpaceX's filings include satellite-based measurements of how much power EchoStar's wireless network and customers are emitting in the AWS-4 spectrum compared to other wireless carriers' power emissions in

[15] *See Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*, Report and Order and Order of Proposed Modification, 27 FCC Rcd. 16102, 16171 ¶ 180(2012) ("The Commission previously determined that separately controlled MSS and terrestrial operations (i.e., two ubiquitous mobile services) in the same band would be impractical because the parties would not be able to overcome the technical hurdles to reach a workable sharing arrangement. . . . the record demonstrates that the earlier Commission conclusion regarding the impracticality of allowing same spectrum, different operator use of the AWS-4 spectrum remains valid.").

[16] MSS Public Notice at 2 ("We also seek comment on steps the Commission might take to make more intensive use of the 2 GHz band, including but not limited to allowing new MSS entrants in the band.").

adjacent bands.[17] To rely on SpaceX's method for determining usage, the Commission would have to set aside its own precedent that buildout compliance is based on population coverage. As established above, EchoStar's networks now reach over 80% of Americans in accordance with the agency's coverage requirements. Making this change, while EchoStar is in the midst of its network build, would set an alarming new precedent that should concern license holders and discourage prospective participants in spectrum auctions. In short, INCOMPAS fundamentally disagrees with SpaceX's use of power emissions as an appropriate measurement of terrestrial activity in the 2 GHz band.

With respect to MSS usage of AWS-4, as EchoStar has explained, the company has worked for years at 3GPP to make the spectrum usable with satellite communications in modern cellular devices. With this standards work largely complete, EchoStar is now focused on bringing direct-to-device services ("D2D") to market using AWS-4 in the United States and around the world. Of particular note with respect to D2D, SpaceX criticizes EchoStar for not doing more with MSS over the years, but SpaceX is still only in Beta of its D2D service with T-Mobile. That demonstrates that the standards and technology are *now* ripe for investment and deployment. EchoStar deserves considerable praise for its work in making AWS-4 an optimal band for D2D and the Commission should be encouraging their MSS plans, not threatening to give MSS rights in AWS-4 to a competitor.

Moreover, the continued use of AWS-4 for both satellite and terrestrial applications supports robust redundancy and coverage in rural and underserved communities. EchoStar's dual-use strategy allows for service continuity during natural disasters and network outages, as

[17] *See, e.g.*, Letter of David Goldman, Vice President of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 23-235, WT Docket No. 22-212, SB Docket No. 25-173, RM-11976, 2 (filed May 13, 2025).

satellite links can serve as vital backstops to terrestrial connectivity. This hybrid approach is uniquely capable of advancing the Commission's universal service goals while maintaining efficient use of scarce spectrum resources. Any move to constrain or revoke this dual-use capability would not only diminish EchoStar's current and future plans, but also reduce the competitive pressure it brings to the wireless market.

Finally, as a condition of the T-Mobile–Sprint merger, EchoStar assumed a public interest obligation to become the nation's fourth facilities-based wireless competitor. Its investment in AWS-4 and commitment to Open RAN are foundational to fulfilling this role. Penalizing EchoStar for pursuing a technologically advanced, standards-compliant, and spectrum-efficient deployment would run counter to the FCC's pro-innovation and pro-competition policies. INCOMPAS urges the Commission to reaffirm EchoStar's full rights to use AWS-4 spectrum, thereby ensuring continued progress toward a more competitive, resilient, and future-forward wireless marketplace.

IV. CONCLUSION

For the reasons stated herein, INCOMPAS urges the Commission to consider the recommendations in its comments as it examines the issues raised in the *Public Notices*.

Respectfully submitted,

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