



September 8, 2021

By Electronic Filing

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

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

Dear Ms. Dortch:

Try to hold a Musk-led company to flight rules? You're "fundamentally broken."¹ Try to hold a Musk-led company to health and safety rules? You're "unelected & ignorant."² Try to hold a Musk-led company to U.S. securities laws? You'll be called many names, some too crude to repeat.³ In the words of the *Wall Street Journal*, Elon Musk wages a "War on Regulators," the public servants charged with uniformly applying the same rules to all.⁴ As the *Journal* reported, "Federal agencies say [Musk is] breaking the rules and endangering people Rather than engaging in a give-and-take with government authorities, Mr. Musk's default response includes making public, sometimes crude, remarks via Twitter disparaging them."

Whether it is launching satellites with unlicensed antennas, launching rockets without approval, building an unapproved launch tower, or re-opening a factory in violation of a shelter-in-place order, the conduct of SpaceX and other Musk-led companies makes their view plain: *rules are for other people*, and those who insist upon or even simply request compliance are deserving of derision and ad hominem attacks.

As well-documented in its filings throughout multiple proceedings and against a growing list of operators,⁵ SpaceX has just one name for any private company that dares point out its flouting of laws and regulations: "anticompetitive." And so it is with a sigh that Amazon responds to SpaceX's most recent attack on Amazon, which takes this familiar tack in order to distract from the actual problem—that, in SpaceX's view, rules are for other people.⁶

¹ *Elon Musk's War on Regulators*, Wall St. J. (April 28, 2021).

² *Elon Musk Dares Authorities to Arrest Him for Reopening Tesla Factory in Defiance of County Order*, The Daily Beast (May 11, 2020).

³ See, e.g., *Elon Musk's War on Regulators*, Wall St. J. (April 28, 2021) (describing a crude name given to the SEC by Musk); see also Elon Musk, Twitter (Oct. 4, 2018) (calling the SEC the "Shortseller Enrichment Commission").

⁴ *Elon Musk's War on Regulators*, Wall St. J. (April 28, 2021).

⁵ As identified in this letter, SpaceX has previously accused at least WorldVu Satellites Limited ("OneWeb"), Viasat, Inc. ("Viasat"), DISH Network ("DISH"), Hughes Network Systems, LLC ("Hughes"), RS Access, LCC ("RS Access"), and Amazon of "anticompetitive" behavior for identifying SpaceX's flouting of regulations.

⁶ See Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (filed Aug. 31, 2021) ("*SpaceX Response*").

Amazon’s provocation in this instance was to point out that SpaceX’s recent amendment to its pending application for its second-generation constellation was improper under the FCC’s rules, because it described two separate constellations instead of one, as the Commission’s rules require.⁷ Allowing this would not only create more work for the Commission and interested parties, as Amazon pointed out, but it would also strain to the breaking point the Commission’s already overloaded pipeline for processing license applications.⁸ To this simple problem, Amazon proposed a simple remedy: settle on a single constellation proposal (as all others do) and resubmit the amendment.

Instead, SpaceX chose a more complicated path—one that involves misinformation, ad hominem attacks, and a belief that it can influence regulators via social media. This path will take longer and inconvenience many, but is sure to lead to the same place. The approach comes from a playbook familiar to any regulator faced with the unfortunate task of evenhandedly applying its rules to SpaceX: concede nothing, ignore rules wherever possible, and when all else fails, malign those that invoke them.

Viewed through this lens, the overheated response to an uncontroversial argument is a predictable specimen of SpaceX’s advocacy. SpaceX takes aim at everything but Amazon’s straightforward argument that its amendment fails to comply with FCC rules. Instead of rational argument, SpaceX offers a cloud of irrelevant boasts about its progress and baseless charges of anticompetitive behavior against Amazon and its “sister companies.” SpaceX studiously avoids even a glance toward Amazon’s actual legal argument—indeed, it does not cite a single case, rule, or example of Commission precedent in support of its position. In SpaceX’s playbook, there is no need to grapple with rules—those apply only to others. Instead, it offers its stock response to the raising of an inconvenient rule—that Amazon’s filing could only be motivated by the improper desire to hinder a competitor.⁹ Shopworn from overuse, this claim becomes less convincing each time SpaceX makes it. For its part, Amazon’s filing makes clear that its aim is not to hinder the processing of SpaceX’s application—it asks only that SpaceX comply with the same rule that the Commission has without exception applied to others, and to resubmit its amendment as soon as it fixes the error.¹⁰ SpaceX can do this as quickly as it wishes—and indeed could already have done so—and any delay that it suffers stems only from its refusal to acknowledge its mistake and fix it.

A review of SpaceX’s prior regulatory advocacy suggests the chance for such a calm and efficient resolution is remote. Before the FCC and other regulators, SpaceX simply refuses to recognize that the rules that apply to others apply to it as well. A few examples of this now well-documented¹¹ approach suffice to illustrate the point:

- SpaceX’s unlawful launch of a Starship rocket supplies an apt metaphor for its regulatory approach and its effects. In December 2020, the Federal Aviation Administration told SpaceX that it could not proceed with the planned launch of a Starship rocket from its Boca Chica, Texas, launch site because the FAA’s weather and launch data indicated that an unsuccessful launch could result in

⁷ See SpaceX Amendment, *see also* 47 C.F.R. § 25.112(a)(1).

⁸ See Letter from Mariah Dodson Shuman, Corporate Counsel, Amazon, to Marlene H. Dortch, Secretary, FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105, at 3 (filed Aug. 25, 2021) (“*Amazon August 15 Letter*”).

⁹ *SpaceX Response, passim.*

¹⁰ See *Amazon August 15 Letter* at 3 (asking the Commission to “invite SpaceX to resubmit its amendment after settling on a single configuration for its Gen2 system”).

¹¹ See, e.g., Susan Pulliam et al., *Elon Musk’s War on Regulators*, Wall St. J. (Apr. 28, 2021), <https://www.wsj.com/articles/elon-musk-tesla-spacex-regulators-crash-11619624227>.

an explosion that, among other things, could “endanger nearby homes.”¹² SpaceX’s CEO, Elon Musk, was well aware of the risk of a failed launch, tweeting days before the launch that it had just a “one-in-three chance of complete success.”¹³ Disregarding the FAA, SpaceX proceeded with the unlawful launch. The launch failed, and the result was a rocket “exploding into a fireball on impact.”¹⁴

- The only lesson SpaceX appeared to draw from this experience was to criticize the regulator more, tell it less, and otherwise keep ignoring it. When the FAA sought to delay a similar launch in January, Musk went on Twitter to “accuse[] the [FAA] of holding back progress and argu[ing] that its regulations were outdated.”¹⁵ Months later, at the same Boca Chica site, the FAA discovered publicly available video footage that indicated that SpaceX’s construction of a tower at the site was at odds with the description SpaceX had provided the FAA as part of its environmental review, and issued a warning that the FAA’s pending environmental review meant the agency could ask SpaceX to take down the tower.¹⁶ SpaceX’s response was not to focus on addressing the FAA’s concern, but to attack the FAA and keep building.¹⁷
- Other Musk-led companies have applied the rules-are-for-others approach as well. In May 2020, Tesla, Inc. reopened a factory in Fremont, California, in defiance of the county’s shelter-in-place order during the start of the COVID-19 pandemic.¹⁸ As was widely reported, Musk dared the county to arrest him and criticized Alameda’s Interim Health Officer as “unelected & ignorant.”¹⁹
- SpaceX’s conduct before the FCC has been true to form. Over the last year, SES, Amazon, and OneWeb identified that SpaceX clandestinely redesigned and launched its satellite antennas in a

¹² Joey Roulette, *SpaceX Ignored Last-Minute Warnings from the FAA Before December Starship Launch*, The Verge (June 15, 2021), <https://www.theverge.com/2021/6/15/22352366/elon-musk-spacex-faa-warnings-starship-sn8-launch-violation-texas>.

¹³ Susan Pulliam et al., *Elon Musk’s War on Regulators*, Wall St. J. (Apr. 28, 2021), <https://www.wsj.com/articles/elon-musk-tesla-spacex-regulators-crash-11619624227>.

¹⁴ *Id.*

¹⁵ *Id.* See also David Shepardson, *U.S. Warns SpaceX Its New Texas Launch Site Tower Not Yet Approved*, Reuters (July 14, 2021), <https://www.reuters.com/business/aerospace-defense/faa-warns-spacex-it-has-not-approved-new-texas-launch-site-tower-2021-07-14/>.

¹⁶ David Shepardson, *U.S. Warns SpaceX Its New Texas Launch Site Tower Not Yet Approved*, Reuters (July 14, 2021), <https://www.reuters.com/business/aerospace-defense/faa-warns-spacex-it-has-not-approved-new-texas-launch-site-tower-2021-07-14/>.

¹⁷ *Id.* (reporting that in June Musk complained on Twitter that “[t]here is simply no way that humanity can become a spacefaring civilization without major regulatory reform.”); Elon Musk, Twitter (June 29, 2021, 3:06 PM), <https://twitter.com/elonmusk/status/1409951549988782087>; Jeff Foust, *SpaceX Surges Starship Work Despite FAA Environmental Review Uncertainty*, SpaceNews (Aug. 4, 2021), <https://spacenews.com/spacex-surges-starship-work-despite-faa-environmental-review-uncertainty/> (reporting that in July, with the environmental review still pending, Musk tweeted a picture of the launch mount along with the boast that “Starbase is moving at Warp 9.”); Elon Musk, Twitter (July 31, 2021, 4:37 PM), <https://twitter.com/elonmusk/status/1421570729255002116>.

¹⁸ Meg Wagner et al., *Tesla Drops Case Against Alameda County Over Reopening Factory*, CNN (May 20, 2020), https://www.cnn.com/us/live-news/us-coronavirus-update-05-20-20/h_1811cd8871525fc989e057bf2fcd7dbc.

¹⁹ Emma Tucker, *Elon Musk Dares Authorities to Arrest Him for Reopening Tesla Factory in Defiance of County Order*, The Daily Beast (May 11, 2020), <https://www.thedailybeast.com/tesla-defies-stay-home-order-by-reopening-california-factory-report-says>.

manner that violated the scope of its existing authorization.²⁰ As in Boca Chica, there were pictures—this time, the PFD contours supplied by SpaceX itself that showed the use of parabolic antennas.²¹ Faced with incontrovertible evidence and strong argument, SpaceX did what it always does: ignored the issue for as long as possible, and accused those that raised it of “obvious delay tactics . . . designed to waste Commission resources and slow delivery of high-quality broadband to otherwise unserved Americans.”²²

- If there is anything kind to say about SpaceX’s approach, it is that it has been effective in achieving SpaceX’s goal of avoiding both the rules and any sanction for flouting them. But SpaceX’s run of success with this strategy may be coming to an end. According to some reports, SpaceX may no longer be entitled to tens of millions of the \$886 million in funds it received as part of the FCC’s Rural Digital Opportunity Fund.²³ This is based on claims that the funds—designed to provide connectivity to unserved areas of the United States—were instead going to “well-served urban areas and random patches of land with no infrastructure.”²⁴ When Viasat raised these concerns to the Commission, SpaceX dismissed them as “anticompetitive.”²⁵ Seeing through the attacks on Viasat, however, the Commission showed SpaceX that rules aren’t just for others. In July, the FCC issued a letter to SpaceX providing them the opportunity to withdraw their funding requests in areas “where significant questions of waste have been raised.”²⁶ For those that follow the rules and those that enforce them, the Commission’s letter provides some hope that a change in SpaceX’s results will prompt a change in its tactics.

²⁰ See, e.g., Reply of SES Americom, Inc. and O3b Limited, IBFS File No. SAT-MOD-20200417-00037, at 12 (filed Aug. 7, 2020); Reply of Kuiper Systems LLC, IBFS File No. SAT-MOD-20200417-00037, at 17 (filed Aug. 7, 2020); Letter from Brian D. Weimer, Counsel, WorldVu Satellites Limited, to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 2-5 (filed Mar. 15, 2021).

²¹ Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 20 (filed Feb. 22, 2021); Letter from Brian D. Weimer, Counsel, WorldVu Satellites Limited, to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 4 (filed Mar. 15, 2021); Reply of SES Americom, Inc. and O3b Limited, IBFS File No. SAT-MOD-20200417-00037, at 13 (filed Aug. 7, 2020).

²² Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 3 (filed Apr. 2, 2021). The FCC has yet to resolve this issue. See *Space Exploration Holdings, LLC Request for Modification of the Authorization for the SpaceX NGSO Satellite System*, Order and Authorization and Order on Reconsideration, 36 FCC Rcd 7995, ¶ 27 (2021) (“Mod3”).

²³ Joey Roulette, *Parking Lots and Airports Don’t Count for Rural Broadband Funding, FCC Tells SpaceX*, The Verge (July 26, 2021), <https://www.theverge.com/2021/7/26/22595004/fcc-spacex-rural-broadband-rdof-parking-lots-airports>.

²⁴ *Id.*

²⁵ See Letter from Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, AU Docket No. 20-34, WC Docket Nos. 19-126 and 09-197, and WT Docket No. 20-443 (filed Jul. 6, 2021).

²⁶ Press Release, FCC, *FCC Makes Available Over \$311 Million for Broadband Funding in 36 States, While Taking Steps to Clean Up the Rural Digital Opportunity Fund Program* (rel. July 26, 2021), <https://docs.fcc.gov/public/attachments/DOC-374406A1.pdf>. See also, Letter from Michael Janson, Director, Rural Broadband Auctions Task Force, FCC, et. al, to David Finlay, Senior Director of Finance, Starlink Services, LLC (July 26, 2021), <https://us-fcc.app.box.com/s/lq4iqpjt8ukal4wve6hbrkbs5473kpcw/file/838638519492> (identifying over 100 pages’ worth of “census blocks . . . where [concerns about wasteful spending] have been raised”).

If the FCC regulated hypocrisy, SpaceX would be keeping the Commission very busy. Despite its repeated assertion that raising arguments in FCC proceedings is “anticompetitive,” SpaceX’s advocacy against others in front of the FCC is unrestrained. SpaceX works tirelessly to ensure that everyone else plays by the rules that it itself rebuffs. For example, SpaceX filed scores of *ex parte* letters—in addition to its opposition—requesting that the Commission reject a petition for rulemaking filed by the MVDDS 5G Coalition to permit two-way mobile use in the 12.2-12.7 GHz band.²⁷ It also routinely raises concerns with respect to its competitors’ currently filed plans, including with respect to interference.²⁸ This type of advocacy is of course a perfectly legitimate exercise of the right to promote views and interests before the FCC—and SpaceX is clearly in favor of the rules being applied—but only to others.

SpaceX’s hypocrisy and double standards are not limited to FCC proceedings. On multiple occasions SpaceX has challenged the U.S. Air Force in the award of government launch contracts to competitors, claiming failures in the government’s decision-making process or non-compliance with applicable laws.²⁹ In one instance, SpaceX brought suit against the U.S. Air Force despite Musk reportedly admitting in a meeting with Department of Defense officials that SpaceX had “‘written a poor proposal’ for the LSA contract and ‘missed the mark.’”³⁰ But when it litigates and protests government procurements, SpaceX claims without irony or shame to be doing so in order to “ensure a level playing field for competition.”³¹ Perhaps worse, in an attempt to normalize its own casual attitude toward regulatory obligations, SpaceX invents rules of its own making out of whole cloth and then attacks others for their non-compliance. SpaceX’s most recent response, for example, breathlessly accuses Amazon of waiting nearly *400 days* and failing to meet with the Commission *a single time* to address orbital debris or interference conditions in its license.³² Missing in this argument is any deadline that Amazon has not met. That is because Amazon is working hard to address these license conditions in a timely fashion, and there is no missed deadline.

Before the FCC, SpaceX’s accusations of anticompetitive behavior have become a tell, signifying only its discomfort in the face of reasonable argument. When Viasat raised environmental concerns in response to SpaceX’s *Mod3*, SpaceX decried the argument as a “blatantly anti-competitive . . . attack by a party that will stop at nothing to delay the only operational NGSO FSS system offering consumer service”³³

²⁷ See, e.g., Space Exploration Technologies Corporation Opposition to Petition for Rulemaking, RM-11768 (filed June 8, 2016); Letter from David Goldman, Director of Space Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, RM-11768 (June 4, 2020); Letter from David Goldman, Director of Space Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, RM-11768 (Oct. 15, 2020); Letter from David Goldman, Director of Space Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, RM-11768 (Dec. 3, 2020).

²⁸ See, e.g., Consolidated Comments of Space Exploration Holdings, LLC, IBFS File Nos. SAT-LOA-20161115-00117, SAT-AMD-20170301-00029, SAT-PDR-20161115-00120, and SAT-LOI-20170301-00031 (filed July 17, 2017) (commenting on applications of Audacy Corporation, Theia Holdings A., Inc., Viasat, Inc., and WorldVu Satellites Limited).

²⁹ See Joey Roulette, *SpaceX Handed Loss in Challenge over Air Force Contract*, Reuters (September 25, 2020), <https://www.reuters.com/article/uk-space-spacex-airforce-idUKKCN26G2OS?edition-redirect=uk>.

³⁰ See *id.*; Space Exploration Technologies Corp. v. USA, Docket No. 2:19-cv-07927 (C.D. Cal. Sep 13, 2019).

³¹ Jackie Wattles, *Now We Know Why SpaceX Is Suing the US Government*, CNN Business (May 28, 2019), <https://www.cnn.com/2019/05/22/tech/spacex-blue-origin-lawsuit/index.html>.

³² *SpaceX Response* at 1.

³³ Opposition of Space Exploration Holdings, LLC to Petition Pursuant to Section 1.1307 of Viasat, Inc., IBFS File Nos. SAT-MOD-20200417-00037 and SAT-MPL-20200526-00056, at 3 (filed Jan. 6, 2021).

SpaceX's CEO echoed these sentiments in a tweet.³⁴ When Amazon sought to have SpaceX's substantial redesign of its constellation placed in the processing round during which SpaceX's modification application was filed, SpaceX asserted that Amazon was "laser focused on changing rules to harm competitors."³⁵ When Viasat, DISH, Hughes, RS Access, and Amazon raised a number of legitimate interference and operational concerns in the *Mod3* proceeding—all were "last-ditch efforts to impose counterproductive provisions meant to hobble a competitor."³⁶ When Amazon petitioned the Commission for a rulemaking to update its rules governing the modification of station licenses—it was merely an attempt to "hobble Amazon's competitors by effectively freezing innovation."³⁷

Once again, SpaceX's primary argument here is that Amazon identifying a rule violation is merely an anticompetitive attempt to hinder its progress. SpaceX repeating this argument again and again—in its *ex parte* letter and on Twitter³⁸—has not made it true. And like all ad hominem attacks, it ignores the actual argument. As Amazon's letter made clear, the purpose of enforcing the Commission's longstanding rule that applicants settle on an orbital configuration before applying is to preserve the fairness and efficiency of the FCC's licensing process. We are aware of no instance—nor does SpaceX cite any—in which the Commission has permitted a filing that asked the Commission to consider multiple, mutually exclusive applications. Notwithstanding SpaceX's arguments that the rules simply shouldn't apply to it, the FCC could not abandon this rule for SpaceX alone.³⁹

Abandoning the rule for all would open the floodgates for applicants to apply for two, three, four—or more—separate, mutually exclusive configurations.⁴⁰ Whatever effort SpaceX or others might spare themselves with this approach would multiply and land on the shoulders of the Commission and other interested parties. SpaceX itself notes that *Mod3* attracted "nearly 200 pleadings."⁴¹ These commenters are not mere obstructionists. They include other NGSO FSS operators seeking to ensure that SpaceX's thousands of satellites do not collide or interfere with their own constellations, scientists concerned about the impact on their fields of study, and other operators seeking to protect their own investments and businesses.

Requiring all of these groups to evaluate one constellation requires significant effort. Requiring them to evaluate two constellations may require twice as much. And extending this burden across all future applications will impose incredible burdens on the Commission and interested parties. It is true that

³⁴ Elon Musk, Twitter (Dec. 29, 2020, 6:25 AM), <https://twitter.com/elonmusk/status/1343880709157474304?lang=en> ("Starlink 'poses a hazard' to Viasat's profits, more like it. Stop the sneaky moves, Charlie Ergen!").

³⁵ Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 2 (filed Feb 25, 2021).

³⁶ Letter from David Goldman, Director of Satellite Policy, Space Explorations Technologies Corp., to Marlene H. Dortch, Secretary, FCC, IBFS File No. SAT-MOD-20200417-00037, at 2 (filed Apr. 15, 2021).

³⁷ Comments of Space Exploration Holdings LLC, RM-11861, at 6 (filed Aug. 17, 2020).

³⁸ *See, e.g.*, Elon Musk, Twitter (Aug. 27, 2021, 1:27 AM), <https://twitter.com/elonmusk/status/1431126154195443714?lang=en>.

³⁹ That would require a rule waiver, which SpaceX has not requested.

⁴⁰ SpaceX claims, without explanation, that the Commission could simply distinguish between an "actual system" and those that were "merely a pretext." *SpaceX Response* at 3. The problem, of course, is not pretextual applications. All applications are filed in the face of uncertainty about system design, which is why the Commission provides for their amendment. *See* 47 C.F.R. § 25.116.

⁴¹ *SpaceX Response* at 2.

Amazon, as SpaceX points out, is well positioned to evaluate and comment on pending applications.⁴² But this burden may weigh more heavily on the other more than 30 parties that commented on SpaceX's *Mod3* application.

And then there is the burden on the Commission, which SpaceX noted required "several pages of footnotes" just to list filings responding to its *Mod3* application.⁴³ In addition to listing these filings, the law required that the Commission carefully consider and respond to the significant arguments raised in each,⁴⁴ a duty that it faithfully discharged in the 57-page order granting SpaceX's modification.⁴⁵ The difficulty of this task means that it can take years for Commission staff to process and grant licenses for new and existing NGSO operators. For existing and prospective licensees seeking to authorize new services, multiplying the Commission's burden in processing applications could dramatically extend this already lengthy process. In other words, Amazon's argument *protects* competition by keeping the door open for prospective licensees, while SpaceX's position would close it. Yet SpaceX accuses Amazon of being an obstructionist using a legal maneuver to create a bottleneck. The administrative snarl that SpaceX urges the Commission to create is the bottleneck. And its advocacy to create this bottleneck for all potential competitors applying for licenses in its wake is "obstructionist."⁴⁶

It is not obstructionist, however, to raise a good faith concern. Nor is it the classic behavior of an anticompetitive licensee to raise such an argument in service of regulatory parity and safeguarding the Commission's licensing process. This is particularly so where, as SpaceX notes, Amazon has reason to "welcome" the flexibility that its arguments may foreclose.⁴⁷ Again, SpaceX does not dispute that the Commission's rules require it to show that it is "ready and willing to construct the satellite it proposes in its application."⁴⁸ And its letter is silent on the Commission's requirements that complete applications be free of "internal inconsistencies"⁴⁹ and "comprise a comprehensive proposal."⁵⁰ Instead of addressing these points, SpaceX believes the rules just don't apply to it and reframes its procedurally defective multi-constellation filing as providing "too much information."⁵¹ Yet, in the process, SpaceX concedes the tentative nature of its mutually exclusive proposals: While "it would *prefer* to deploy Configuration 1" of its proposed Gen2 system, it "provided information about a second option depending on the timing of development of the satellites and launch vehicle"⁵² While SpaceX admits on the one hand that it has

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See, e.g., *Am. Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 242 (D.C. Cir. 2008) (noting that an agency is required "to consider responsible alternatives to its chosen policy and to give a reasoned explanation for its rejection of such alternatives" (citations omitted)).

⁴⁵ See *Space Exploration Holdings, LLC Request for Modification of the Authorization for the SpaceX NGSO Satellite System*, Order and Authorization and Order on Reconsideration, 36 FCC Rcd 7995 (2021).

⁴⁶ See *SpaceX Response* at 3.

⁴⁷ *Id.* at 3.

⁴⁸ *Id.* (quoting *Amazon August 15 Letter* at 2). See also *In the Matter of EchoStar Satellite LLC*, Order on Reconsideration, 19 FCC Rcd. 24953, ¶ 13 (2004).

⁴⁹ 47 C.F.R. § 25.112(a)(1).

⁵⁰ *Id.* § 25.114(a)(1).

⁵¹ *SpaceX Response* at 1.

⁵² *Id.* at 3 (emphasis added).

submitted two constellation designs in a single amendment application, it insists that the rules preventing such a filing do not apply to SpaceX.

The Commission and NGSO FSS operators are unified by an ambitious shared goal of connecting tens of millions of people on Earth. The Commission's task of licensing and regulating the burgeoning field of NGSO FSS operations is hard. So too is the task of NGSO FSS operators, who are inventing, designing, building, launching, and seeking authorization for thousands of cutting-edge satellites. Neither should have to do this hard and honest work while being assailed, vilified, and intimidated on social media and in every other regulatory and legal fora. None of this will change until SpaceX and Musk realize that the rules are not just for others—they apply to them as well. If SpaceX and Musk continue to hold themselves above the rules, they should buckle up: they will only draw further protest from Amazon and others who want to see rules applied to everyone equally. Musk and SpaceX will likely continue to respond as they have here, and the chaotic and resource draining cycle will continue. Amazon asks that the Commission show SpaceX that the rules apply to it as well. This—and only this—will free all those involved to return to the real work of closing the digital divide.

Sincerely,

/s/ C. Andrew Keisner

C. Andrew Keisner
Lead Counsel
Kuiper Systems LLC,
an Amazon subsidiary