

**Before the
DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Washington, DC 20230**

In the Matter of)
)
Request for Information: Private Remote) 89 Fed. Reg. 16,730 (2024)
Sensing Satellite Disposal and Debris)
Mitigation)

COMMENTS OF MAXAR TECHNOLOGIES INC.

Maxar Technologies Inc. (“Maxar”) appreciates the National Oceanic and Atmospheric Administration’s (“NOAA”) concerns in the Request for Information (“RFI”) regarding disposal and debris mitigation for “satellites without FCC licenses.”¹ Orbital-debris mitigation standards prevent on-orbit collisions and ensure the safety of the space environment. Thus, Maxar supports NOAA’s efforts to close licensing loopholes and enforce satellite-disposal and debris-mitigation standards on U.S. remote sensing licensees that are not licensed by the Federal Communications Commission (“FCC” or “Commission”). However, NOAA should not apply any such rules to FCC licensees. The Commission already subjects FCC-licensed systems to its comprehensive orbital-debris regulations, and subjecting these systems to further regulation would be duplicative, unnecessary, and counterproductive.

I. NOAA IS RIGHT TO CONSIDER ORBITAL-DEBRIS REGULATIONS FOR SYSTEMS THAT ARE NOT LICENSED BY THE FCC.

Maxar supports a narrow rulemaking or guidance for “satellites without FCC licenses” or NOAA “licensees without FCC licenses.”² As NOAA rightly explains, “FCC licenses already

¹ *Request for Information: Private Remote Sensing Satellite Disposal and Debris Mitigation*, 89 Fed. Reg. 16,730, 16,371 (Mar. 8, 2024) (“RFI”).

² *Ibid.* (options 2 and 3).

address orbital debris and disposal issues in a comprehensive manner.”³ Thus, as NOAA has also explained, there is no need to impose orbital-debris requirements on FCC licensees because doing so would result in “duplicative regulation.”⁴ But the same is not true for operators “not currently licensed by [the] FCC,” such as operators “electing to receive radiofrequency licenses from other nations while seeking a NOAA remote sensing license in the United States.”⁵ Thus, NOAA is right to consider imposing orbital-debris rules for these foreign-licensed operators to ensure the safety and sustainability of the commercial space environment.

II. NOAA SHOULD NOT IMPOSE ORBITAL-DEBRIS REGULATIONS ON FCC LICENSEES, SUCH AS MAXAR.

The RFI asks if NOAA should conduct a “rulemaking pertaining to the subsection (b)(4) license requirement that exists in all of its licenses.”⁶ The answer is no. NOAA’s current orbital-debris regulations take the right approach by deferring to the FCC’s orbital-debris requirements for satellites licensed by that agency. Specifically, NOAA’s rules require a licensee, upon termination of its license, to “make disposition of any satellites in space in a manner satisfactory to the President.”⁷ NOAA clarified in 2020 that “the disposition manner satisfactory to the President is to follow the relevant FCC license.”⁸

NoAA is right to deem satisfactory the FCC’s orbital-debris rules. As NOAA recognized in 2020, the FCC regulates the orbital-debris practices of its licensees—including Maxar—“in a

³ *Ibid.*

⁴ *Ibid.*; see also *Licensing of Private Remote Sensing Space Systems*, 85 Fed. Reg. 30,790, 30,799 (May 20, 2020) (“Final Licensing Rule”).

⁵ RFI, 89 Fed. Reg. at 16,371.

⁶ *Ibid.*

⁷ 15 C.F.R. § 960.8(d).

⁸ Final Licensing Rule, 85 Fed. Reg. at 30,799.

comprehensive manner.”⁹ In fact, that same year, the FCC “comprehensively update[d] the Commission’s existing rules regarding orbital debris mitigation.”¹⁰ And earlier this year, the FCC offered “clarification” and “guidance” on those rules at the urging of licensees.¹¹ Finally, the FCC does not hesitate to enforce violations of these comprehensive rules, including entering into a recent Consent Decree with DISH Operating L.L.C. that mandated a comprehensive compliance plan and a \$150,000 civil penalty.¹²

It is thus unnecessary to impose new orbital-debris regulations on FCC licenses that are already subject to a comprehensive disposal and debris-mitigation scheme. Mitigating debris requires a clear framework in which all operators and manufacturers can understand and apply a consistent, predictable set of rules over a prolonged period. Duplicative—and potentially conflicting—frameworks are inapposite to this goal. The D.C. Circuit’s general maxim holds true here: an agency’s efforts “to avoid duplicative regulation is self-evidently reasonable.”¹³ NOAA got it right in 2020 when it eschewed additional orbital-debris requirements for FCC licensees to “avoid duplicative regulation.”¹⁴

Layering on duplicative regulations would also be counterproductive and undermine the global competitiveness of American remote sensing systems. When NOAA overhauled its

⁹ *Ibid.*

¹⁰ *Mitigation of Orbital Debris in the New Space Age*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd. 4156, ¶ 2 (2020).

¹¹ *See Mitigation of Orbital Debris in the New Space Age*, Order on Reconsideration, ¶ 2, IB Docket No. 18-313 (rel. Jan. 26, 2024) (“*January Recon Order*”).

¹² *See DISH Operating L.L.C.*, Consent Decree, DA 23-888 (rel. Oct. 2, 2023); *see also January Recon Order*, Statement of Chairwoman Jessica Rosenworcel (explaining that “FCC is holding operators accountable when they do not comply with our orbital debris policies” and highlighting “enforcement action against a company for its failure to comply with a satellite de-orbiting plan”).

¹³ *Nat’l Cable Television Ass’n, Inc. v. FCC*, 33 F.3d 66, 74 (D.C. Cir. 1994).

¹⁴ Final Licensing Rule, 85 Fed. Reg. at 30,799.

licensing rules in 2020, it sought to “ensur[e] that U.S. industry continues to lead the rapidly maturing and highly competitive private space-based remote sensing market.”¹⁵ NOAA acknowledged that, in light of “intensifying and uncontrollable foreign competition,” its prior regulatory scheme was “too restrictive, resulting in some operators establishing their remote sensing businesses overseas.”¹⁶ NOAA thus rescinded “duplicative” and ineffective rules to “ensure continued U.S. leadership in the global market for space-based remote sensing data.”¹⁷ NOAA’s logic still holds true: an additional and unnecessary orbital-debris regulatory hurdle for NOAA licensees would benefit unregulated foreign commercial remote sensing systems. NOAA should not hinder the competitiveness of American remote sensing systems through duplicative regulations.

III. CONCLUSION

Maxar, as a satellite operator, understands better than anyone the risks of orbital debris. It thus takes seriously its obligations under the FCC’s comprehensive orbital-debris regulations. It also supports NOAA’s efforts to ensure the safety and sustainability of the commercial space environment by holding to the same high standards as FCC licensees, operators not licensed by the FCC. In closing this regulatory loophole for unlicensed operators, however, NOAA should not impose duplicative regulations on FCC licensees.

¹⁵ *Id.* at 30,790.

¹⁶ *Id.* at 30,791–92.

¹⁷ *Id.* at 30,792, 30,799.

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Respectfully submitted,

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