

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

COPY RECEIVED

OCT 14 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of  
Application of STARSYS, INC.  
For Authority to Construct a  
Low-Earth Orbit Communications  
Satellite to be Stationed in an  
Inclined Non-Geostationary Orbit

File No. 33-DSS-P-90(24)

INTERNATIONAL FACILITIES DIVISION  
COMMON CARRIER BUREAU

OCT 20 1992

DOMESTIC FACILITIES DIVISION  
SATELLITE RADIO BUREAU

OCT 21 1992

COMMENTS OF ORBCOMM ON THE PETITION FOR DECLARATORY RULING

Orbital Communications Corporation ("ORBCOMM"), by its attorneys, hereby submits its limited comments on the Petition for Expedited Declaratory Ruling recently filed by STARSYS Global Positioning, Inc. ("Starsys"). ORBCOMM does not oppose permitting Starsys to amend its application to reflect a change in ownership of the Class A common stock from ST Systems Corporation to Hughes STX Corporation, without such an amendment affecting the pendency of the Starsys application. ORBCOMM does not believe the regulatory processes should be used to stifle competition, and ORBCOMM does not oppose the Commission's grant of licenses to qualified applicants in addition to ORBCOMM. Indeed, ORBCOMM agrees with Starsys that the proposal of ORBCOMM, Starsys and Volunteers in Technical Assistance ("VITA") to resolve the potential mutual exclusivity among the current

applicants will allow the Commission to license multiple low-Earth orbit satellite systems operating below 1 GHz.

ORBCOMM does disagree, however, with Starsys' characterization of ST Systems Corporation's interest in Starsys as providing it with de jure or de facto control over Starsys. As ORBCOMM has demonstrated previously, Starsys' attempt to avoid foreign ownership and control concerns through an artificial two-tier stock structure is unavailing.<sup>1/</sup> Aliens own 95% of the equity of Starsys, with a majority of the ownership of Starsys (66.5%) attributable to the French government.<sup>2/</sup> The simple limitation on the alien owners' ability to elect a majority of the Directors -- with no voting restrictions on other matters and with apparent continued financial dominance by the foreign owners -- does not negate the control of the French government. Thus, even assuming the Commission adopts Rules that permit an applicant to choose whether it wants to operate as a common carrier or a private carrier, Starsys' current ownership and control by the French government makes it ineligible to be a licensee under Section 310(a) of the Communications Act, notwithstanding Starsys' characterizations of control in its petition for declaratory ruling.

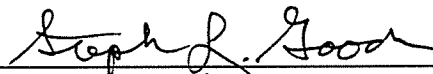
---

<sup>1/</sup> See, e.g., Reply Comments of ORBCOMM on the Starsys Application, submitted September 21, 1990 at pp. 3-10.

<sup>2/</sup> Starsys is 95% owned by North American CLS, in turn a wholly-owned subsidiary of the French company Collecte Localisation Satellites, which is owned 55% by CNES (the French Space Agency), 15% by INFREMER (the French Institute for Research of the Sea) and 30% by French banks. Thus, 66.5 % of Starsys is owned by the French government (55% (CNES) + 15% (INFREMER) x 95% (NACLS' ownership share of Starsys)).

The Commission, however, need not settle this issue of foreign government control in response to Starsys' petition for declaratory ruling. The Commission can and should address the legal qualifications of Starsys in acting on its application, and ORBCOMM urges the Commission to resolve expeditiously all of the outstanding regulatory matters necessary to make these important low-Earth orbit satellite services available to the public, including allocation of the spectrum, promulgation of service rules, and parallel processing of all three pending applications.

Respectfully submitted,



---

Albert Halprin  
Stephen L. Goodman  
Halprin, Mendelsohn & Goodman  
1301 K Street, N.W., Suite 1020, East  
Washington, D.C. 20005  
(202) 371-9100

Counsel for Orbital Communications Corp.

October 14, 1992