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JUN 22 1999

Satellite Policy Branch  
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JUN 17 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

June 17, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W. TW-A325  
Washington, D.C. 20554

Re: Application of AfriSpace, Inc for Authority to Launch and Operate a Satellite Sound Broadcasting Transmission System; File No. CSS-90-017; IBFS File Nos. SAT-LOA-19900723-00002; SAT-AMD-19990125-00016

Dear Ms. Salas:

On May 27, 1999, the General Aviation Manufacturers Association ("GAMA") submitted a letter to the Federal Communications Commission ("Commission"). This letter responded to our request, as counsel to AfriSpace, Inc. and WorldSpace, Inc., that GAMA's filing be rejected for failure to comply with Section 25.154(a)(5) of the Commission's Rules. Section 25.154(a)(5) requires that oppositions to pleadings must "[c]ontain a certificate of service showing that it has been mailed to the applicant no later than the date the pleading is filed with the Commission."

In the May 27th letter, GAMA asserts that its letter was in accordance with the Commission's Public Notice issued on March 4, 1999 because its letter was an *ex parte* presentation. Apparently, it was just a coincidence that the GAMA letter was filed on the same date, May 3, that the Commission established in its Public Notice as the date to submit responses to the AfriSpace Amendment.

Nevertheless, even as an *ex parte* presentation, GAMA's letter fails to comply with the Commission's Rules. Section 1.1206 of the Commission's Rules contains particular requirements that must be complied with by any party submitting an *ex parte* presentation. First, GAMA's May 3rd presentation was not labeled as an *ex parte* communication. Further, GAMA's letter did not indicate whether this communication was a result of a permitted oral presentation or, alternatively, a written presentation to Commission

Letter to Ms. Roman Salas  
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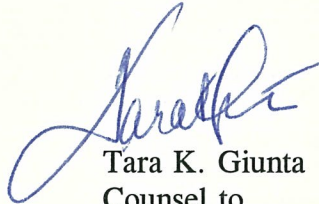
"decision-making personnel" (which does not include the Secretary of the Commission, *see* 47 C.F.R. §1.1202(c)).

In fact, GAMA's letter failed to indicate whether an *ex parte* communication was made prior to, or concurrent with, the submission of the May 3 letter. If GAMA met with decision-making personnel, then it needed to disclose with whom it met, when and what it discussed. If its letter was the sole *ex parte* presentation, then it should have been addressed to appropriate Commission staff.

GAMA's failure to comply with the Commission's requirements for filing an *ex parte* communication, coupled with the coincidental filing date of its letter, led to the conclusion that the May 3rd letter was intended to be a formal filing. It is just this type of confusion that the Commission seeks to avoid with its rules regarding *ex parte* communications.

We renew our objection to making GAMA's May 3rd letter part of the record in the above-reference proceeding.

Sincerely,



Tara K. Giunta  
Counsel to  
WorldSpace, Inc. and  
AfriSpace, Inc.

CERTIFICATE OF SERVICE

I, Christine L. Zepka, hereby certify that on this 17th day of June, 1999, a true and correct copy of the foregoing letter was sent by first class U.S. mail, postage prepaid, to the following parties:

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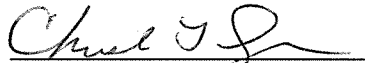
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\* Hand delivered

  
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