

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
AfriSpace, Inc., Debtor-in-possession)	SAT-ASG-20090415-00044
)	

**JOINT RESPONSE OF AFRISPACE SATELLITE, INC. AND
AFRISPACE, INC., DEBTOR-IN-POSSESSION TO
COMMENTS OF ECONET USA CORPORATION**

AfriSpace Satellite, Inc. (“ASI”) and AfriSpace, Inc., Debtor-in-Possession (“AfriSpace DIP” and, collectively “AfriSpace”), by their attorneys and pursuant to Section 25.154(c) of the Federal Communications Commission’s (“FCC’s” or “Commission’s”) rules,¹ hereby respectfully submit their response to comments submitted by Econet USA Corporation (“Econet”) to the joint application for the assignment of space station authorizations filed by ASI and AfriSpace DIP (the “Application”).² Econet’s submission is nothing more than a thinly-veiled attempt by the failed bidder in the WorldSpace, Inc. (“WorldSpace”) bankruptcy auction and sale to delay the grant of the Application. Econet’s strategy is clear: if it can delay the closing on the sale of WorldSpace to WorldSpace Holding Corporation (“WHC”)³ – which is contingent on the Commission’s consent – perhaps it can gain an opportunity to re-bid on those assets or purchase such assets from a liquidation sale. The Commission should not permit itself

¹ 47 C.F.R. § 25.154(c).

² Comments of Econet USA Corporation, SAT-ASG-20090415-00044 (filed Jun. 1, 2009).

³ For the purposes of this submission, the name “WHC” refers to WorldSpace Holding Corporation and all of its related subsidiaries.

to be manipulated by Econet, but instead should expeditiously approve the assignment as clearly in the public interest.⁴

I. THE PUBLIC INTEREST SUPPORTS APPROVAL OF THE ASSIGNMENT

In determining whether or not to grant a request for a transfer of control or for the assignment of a license, the Commission considers whether the request will serve the public interest, convenience and necessity.⁵ Key among the factors that the Commission considers when determining whether a proposed transaction will serve the public interest are: the provision of uninterrupted service to consumers, whether the applicants are qualified to hold and transfer Commission licenses⁶ and any national security considerations that may be implicated.⁷ Grant of the subject Application meets all of these considerations.

First, grant of the Application will enable WorldSpace to emerge from bankruptcy and continue providing service to its customers around the world, thus providing “a means for delivering vitally needed news, information, distance education, health, agricultural, weather and entertainment programming to the underserved audiences in its service region.”⁸ WorldSpace

⁴ For a discussion of the public interest showing, please see the Application, Exhibit B.

⁵ 47 U.S.C. § 310(d).

⁶ *Western Wireless Corporation and Alltel Corporation, For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13053 at ¶ 18 (2005) (stating that “the Commission must determine whether the Applicants meet the requisite qualifications to hold and transfer licenses under section 310(d) of the Act and the Commission's rules”).

⁷ *Telefonica Larga Distancia De Puerto Rico, Inc., For Review of Nondiscrimination Safeguards Imposed; Application for Submarine Cable Landing License for the COLUMBUS II Cable System; Section 214 Application to Provide Service to Spain on the COLUMBUS II Cable System*, Memorandum Opinion and Order, 12 FCC Rcd 5173 at ¶ 18 (1997) (stating that a public interest determination includes “national security, law enforcement, foreign policy, or trade concerns raised by the Executive Branch”).

⁸ Application, Exhibit F.

uses low-cost portable satellite radios to provide service to markets that otherwise would lack radio news and programming choice. The WorldSpace broadcast footprint covers over 130 countries including India and China, all of Africa and the Middle East and most of Western Europe – an area that includes five billion people and more than 300 million automobiles. WorldSpace’s programming includes a wide-variety of offerings, many of which cater to the specific interests of underserved markets. In fact, of the 62 channels currently broadcast by WorldSpace, 38 consist of content provided by international, national and regional third parties. AfriSpace holds the licenses that allows WorldSpace to accomplish all of this within its service region. In ruling on such requests, the Commission has determined that the public interest is served by “provid[ing] continuous service and disrupt[ing] as few viewers as possible.”⁹ Consistent with its mission to provide continuous service to underserved customers, the Commission should not delay in granting the Application and risk disruption to customers to its service region.

Second, ASI (along with its controlling shareholder, Noah Samara) is qualified to hold an FCC license.¹⁰ Both WorldSpace and Mr. Samara have been passed on by the Commission, and WorldSpace has been a licensee in good standing for many years.¹¹ WorldSpace has always comported itself in a manner consistent with the requisite “citizenship, character, financial, technical, and other qualifications” required of a Commission licensee.¹²

⁹ *Alabama Broadcasting Partners, For Early Transition and Phased Transition Relief for Station WAKA-DT*, Memorandum Opinion and Order, 23 FCC Rcd 17705 at ¶ 6 (2008).

¹⁰ *See, e.g.*, IBFS File No. SES-REG-20050911-01253.

¹¹ *See AfriSpace, Inc., For Authority to Construct, Launch, and Operate a Subregional Africa and Middle Eastern Satellite Sound Broadcasting Transmission System*, Order and Authorization, DA 99-2849 (Int. Bur. rel. Dec. 17, 1999).

¹² 47 U.S.C. §§ 308, 310(d).

Third, there are no national security concerns at issue in the proposed transaction. As noted above, WorldSpace is not new to the Commission and, in fact, underwent a full national security review in connection with its 2005 United States initial public offering (“IPO”).¹³ Further, as a pioneer of satellite radio both in the United States and across the globe, WorldSpace has worked with the Commission for nearly twenty years to develop rules for the domestic Digital Audio Radio Service (“DARS”) market and to obtain a satellite authorization to provide Satellite Digital Audio Radio Service (“SDARS”) to its service area. WorldSpace’s headquarters, Regional Operating Center (“ROC”) and programming studios are located in metropolitan Washington, DC. Therefore, Econet’s vague assertion that a well-known Commission licensee may suddenly pose national security concerns is mere distraction. Despite Econet’s attempt to distract, the issue of concern to the Commission is who controls the licensee.¹⁴ Consistent with WorldSpace’s twenty-year history with the Commission, Noah Samara – the founder and controlling shareholder of WorldSpace throughout its existence – will continue to control the subject authorizations.

Absent specific factual allegations, as required by the Commission’s rules governing comments regarding pending satellite applications, the Commission should ignore Econet’s baseless inference that ASI is not qualified to hold a Commission license due to abstract references to “national security concerns.”

II. THE APPLICATION IS COMPLETE AND PROVIDES SUFFICIENT INFORMATION AS REQUIRED BY COMMISSION RULES

Contrary to Econet’s assertions, the Application is complete and contains sufficient information to enable the Commission to render a decision on the merits. And, Econet takes no

¹³ See IBFS File No. SAT-T/C-20050425-00090.

issue with those merits. Rather, Econet has instead taken a “pot shot” at WorldSpace, insinuating vague “national security” concerns without citing any real substance. Consistent with requirements under Rule 25.119, the information provided in the application is complete and accurate, despite Econet’s nebulous assertions to the contrary.

The Commission is properly concerned with the identity of entities that may lawfully exercise control over a licensee, since those entities are legally empowered to direct the business decisions of the licensee. This, in turn, can affect service to customers, and is therefore relevant to the Commission’s public interest determination.¹⁵ The Application has provided the Commission with all requested and necessary information as to control of the proposed licensee, which will enable the Commission to make a fully-informed decision with respect to the Application.

As purported justification, Econet references the fact that WorldSpace listed its relationship with Mr. Idris as a “risk factor” in a 2007 Securities and Exchange Commission (“SEC”) filing. “Risk factor,” however, is a term of art, used for a specific limited purpose in SEC filings, which has no bearing on Commission proceedings.¹⁶ Because perception is often reality in the securities market, the SEC requires that regulated entities disclose all factors that may adversely affect stock price – and in the court of public opinion this may include speculative

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¹⁴ See Question A20, FCC Form 312, Schedule A.

¹⁵ The Commission’s transfer of control rules are based on the “special concern [demonstrated by Congress] that ultimate responsibility for a station’s operation rests with the party licensed by [the] Commission by imposing requirements that licensees notify the Commission when a ‘transfer of control’ over a station was proposed and by further requiring a Commission finding that such a transfer will be in the public interest, convenience, and necessity before it can be consummated.” *The Trustees of the University of Pennsylvania Radio Station WXPN(FM), For Renewal of License*, Decision, 69 F.C.C.2d 1394, ¶ 7 (1978).

¹⁶ See 17 C.F.R. § 229.503(c).

stories about certain investors. Accordingly, the unsubstantiated allegations against Mr. Idris were included on WorldSpace's 10-K and prior filings as well.¹⁷ Contrary to Econet's intended inference, including Mr. Idris' as a risk factor on a 10-K filing only indicates that, out of an abundance of caution and in the interest of full disclosure, WorldSpace listed its relationship with Mr. Idris as one that might affect share price volatility. Interestingly, Econet does not include the primary point of that risk factor disclosure: that the allegations which led to Mr. Idris' disclosure as a risk factor "were subject to serious challenge in the press and...have never been substantiated."¹⁸ The purposes of disclosing a risk factor in an SEC filing are separate and apart from the type of concrete information that the Commission requests on assignment applications, and for Econet to suggest otherwise is simply disingenuous.

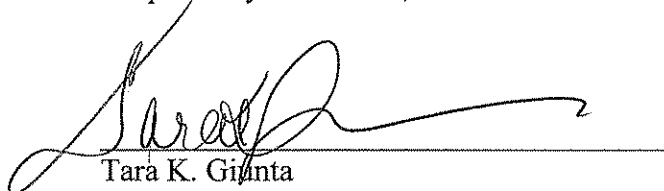
III. CONCLUSION

Through this submission, AfriSpace respectfully requests that the Commission discount Econet's comments for what they are: crass manipulation of the administrative process under the guise of "national security" concerns. The Commission should not permit itself to be misled by Econet, but instead should rule on the subject request expeditiously, as requested in the Application. As discussed in detail above, WorldSpace has been a Commission licensee in good standing since 1991, and has a spotless history of compliance with all applicable FCC rules and regulations. The Commission previously has passed on WorldSpace, including a full national security review in connection with its IPO. The result is an ownership structure and management team that is well-known to the Commission.

¹⁷ In fact, Mr. Idris has been included in WorldSpace's public SEC filings, dating back to its first filing in 2005.

Consistent with the Commission's standard for reviewing the assignment of radio licenses, by its Application, AfriSpace has shown that the assignment of licenses to ASI, thereby enabling the continuation of service, will serve the public interest, convenience and necessity. For good cause shown, the prompt grant of the subject Application will enable WorldSpace to emerge from bankruptcy and continue to serve its customers throughout the globe.

Respectfully Submitted,



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¹⁸ WorldSpace, Inc., Fiscal year 2007 Form 10-K at 41, *available at* <http://www.sec.gov/Archives/edgar/data/1315054/000119312508071173/d10k.htm> (last visited Jun. 3, 2009).