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Federal Communications Commission
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Received

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Satellite Policy Branch
International Bureau
AILEEN A. PISCOTTA

DIRECT LINE (202) 955-9771

March 16, 1998

By Hand Delivery

Ms. Regina Keeney
Chief, International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 830
Washington, D.C. 20554

Re: Final Analysis Communication Services, Inc. regarding Application for Non-Voice Non-Geostationary Mobile Satellite Service ("NVNG MSS") Authorization, File No. 25-SAT-P/LA-95; 76-SAT-AMEND-95; 89-SAT-AMEND-96; 151-SAT-AMEND-96; 7 SAT-AMEND-98

Dear Ms. Keeney:

As you requested at our meeting on March 11, 1998, I am sending this letter, on behalf of Final Analysis Communication Services, Inc. ("Final Analysis") to provide additional information on Final Analysis's launch arrangements with the Polyot Design Bureau ("Polyot").

As you know, and as set forth in the record, Final Analysis has a barter arrangement with Polyot. Under this arrangement, Polyot provides Cosmos launch vehicles to Final Analysis. Polyot is the only manufacturer of the Cosmos launch vehicle, the most reliable launch vehicle in its class. A number of Cosmos launch vehicles sufficient to launch the entire proposed Final Analysis constellation have already been manufactured, assembled, and integrated and are being stored and reserved for the Final Analysis launches. No license is required to contribute these launch vehicles to Final Analysis.

In return for providing the launch vehicles, and in lieu of cash payment, Polyot receives services from Final Analysis. These services have significant value. For one, Final Analysis has agreed to grant to Polyot the right to act as Russian-CIS National Service Provider ("NSP") for

its Little LEO services. In other countries, a potential National Service Provider must pay significant fees for this right. In addition, Final Analysis will provide valuable communication services to Polyot. These services will be utilized by Polyot in the development and implementation of its own mobile satellite system, "COSCON," which has already been approved by the Russian government and for which ITU Advance Publication was filed in 1992 for international coordination. Final Analysis and Polyot intend to operate their systems together in Russia-CIS under the name FAISAT-COSCON. Final Analysis first established a business relationship with Polyot in 1993. The FAISAT-COSCON partnership was established in 1995. Indeed, the partnership agreement was signed during Telecom '95 in a public ceremony covered by the press that was attended by a number of U.S. and Russian government officials, including the U.S. Deputy Secretary of Commerce, David J. Barram (See attached article).

In December 1997 there was a change in the management of Polyot. Both the General Director and Chief Designer, the two top executives of Polyot, were replaced. As a result, the new General Director, O.P. Dorofeev, and new Chief Designer, V.V. Markelov, sent a senior Polyot deputy, Mr. Vasiley Gorlov, to meet with Final Analysis in early February 1998 to demonstrate their commitment to continue Polyot's arrangement with Final Analysis. As evidenced by the attached letter to Final Analysis by General Director Dorofeev and Chief Designer Markelov, Polyot remains fully committed to their cooperative arrangement with Final Analysis and the deployment of FAISAT-COSCON. Thus, Polyot remains ready, willing and able to providing the agreed-upon launch vehicles under the existing barter arrangement.

Several Communications Daily reports, however, provide misleading and erroneous information about Final Analysis's arrangements with Polyot. First, some Communications Daily reports incorrectly characterize the Polyot launches as "free" to Final Analysis. In fact, as part of its partnership contribution, Final Analysis will forgo significant income on the one hand (the NSP fees), and will contribute significant valuable services on the other in return for Polyot launch vehicles. When Final Analysis performed its economic analysis of the value of Final Analysis services contributed versus the contribution of launch vehicles by Polyot, all elements of the partnership, including launch costs, were based on U.S. market prices.

Also, the Communications Daily reported on February 23, 1998 that the Russian Space Agency ("RSA") had revoked Polyot's right to market its launch vehicles. The article implied that this development would adversely impact Final Analysis's relationship with Polyot. However this is completely inaccurate. First, the Communications Daily articles confuse individual launch licenses with the authority to market launch vehicles to western clients. These are two different things. Second, the articles incorrectly associate the issue of the marketing of Cosmos launch vehicles with Polyot's arrangement with Final Analysis. In fact, Final Analysis has no interest in, intention of, or arrangement with Polyot for the purpose of acting as a broker or marketer to third parties of Cosmos launch vehicles. Most importantly, the FAISAT-COSCON launch vehicles have not been part of any brokerage to third parties. Polyot has a direct interest in the launches because the launch vehicles to be utilized by Final Analysis are the same as for the FAISAT-COSCON partnership. Thus, Any issue raised in Communications Daily articles press articles regarding whether Polyot may, or appropriately has, granted rights to various entities to market Cosmos launch vehicles to third parties, or has a license to market

launch vehicles to Western clients, has absolutely no relevance whatsoever to Final Analysis or to its arrangements with Polyot for the launches of FAISAT-COSCON satellites.¹

Launch services themselves, which occur at the launch site, have always been provided by the Russian Space Forces, a military organization which is now a division of the Russian Rocketry Command. No commercial or civilian organization provides these services. The RSA grants licenses to Russian civilian organizations for services incident to individual launches. For launches of non-Russian payloads, the launch vehicle manufacturer or other appropriate Russian entity, such as Polyot, is responsible for obtaining the appropriate licenses from the RSA for each individual launch. This is very similar to U.S. practice, whereby Orbital Sciences, Lockheed Martin, or other launch vehicle manufacturer obtains launch licenses from the Department of Transportation and/or the FAA. Also like the Russian practice, the U.S. military is closely involved with overseeing the actual launch.

Final Analysis was the first U.S. company to launch a payload from Russia with the launch of the FAISAT-1 in 1995. The second such launch occurred with Final Analysis's second experimental satellite, FAISAT-2v, in September 1997. Final Analysis has far more experience in the requirements for Russian launches than anyone else, and its experience has been that, like in the U.S., each launch requires an individual license. Final Analysis's arrangement with Polyot presumes that Polyot will have all required launch service licenses at the time that FAISAT-COSCON launches actually take place a couple of years from now. The receipt of such individual launch licenses is an issue that will not be ripe until near the time of an actual launch. Indeed, the granting of launch licenses, in both the U.S. and Russia, is a case by case governmental decision dependent on many regulatory factors.²

Mr. Topalov, who is quoted in the Communications Daily articles is not an employee or officer of the RSA. He works for a consulting firm called Inspace. Another Inspace employee is quoted as saying that if Polyot and Final Analysis have an agreement, it is "against the law." To Final Analysis's knowledge, neither of the quoted individuals is authorized to speak on behalf of RSA. Also, given that neither individual is privy to the details of the Final Analysis-Polyot agreement, neither has sufficient knowledge to comment about the legal status of the arrangement. Final Analysis constructed its agreement with Polyot in full compliance with applicable U.S. and Russian law.

The attached translated letter from Polyot confirms that the recent actions by the RSA are related to the marketing of Cosmos launch vehicles and do not affect Polyot's ability to provide the launch vehicles already in inventory and committed to the Final Analysis partnership.

¹ Final Analysis has attempted on several occasions to make this point clear to Communications Daily, apparently without success.

² As stated in our October 30, 1997 Amendment at footnote 18, 51° inclination launches require permission from the government of Kazakhstan in addition to permission from Russian authorities (and U.S. authorities for licensing of satellite exports for launch).

KELLEY DRYE & WARREN LLP

We hope that this information will fully answer any questions you may have, but please feel free to contact me if you need further clarification.

Sincerely yours,

A handwritten signature in black ink, appearing to read "A. Pisciotto". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aileen A. Pisciotto
Counsel for
Final Analysis Communication Services, Inc.

cc: Cassandra Thomas
Tania Hanna

Enclosures

Business America

THE MAGAZINE OF INTERNATIONAL TRADE

Volume 116, Number 11
November 1995

U.S. and Russian firms joined forces at Telecom '95 in Geneva, Oct. 5. Final Analysis Inc., an American pioneer in small satellite technology, and Russia's POLYOT Enterprises, one of the world's largest aerospace companies, formed a strategic alliance for the manufacture and launching of small satellites into earth orbit. The signing of the joint venture by Nader Modanlo, President of Final Analysis (center), and Stanislav R. Osmulsky, General Director of POLYOT (left), was attended by a number of Russian and American dignitaries, including Deputy Secretary of Commerce David J. Barram (right).



TRANSLATION

Design Bureau Polyot
644021, Omsk-21
27 February 1998
Ref.# P/200

To: Nader Modanlo
President of Final Analysis

Dear Mr. Modanlo,

We would like to express our regret over the tendentious and disinforming statement of Mr. Topalov, published in Communications Daily dated 23 February 1998, about Polyot's cooperation with Final Analysis, Assured Space Access and OHB Systems.

We are confirming that neither Manufacture Association Polyot (PO Polyot) nor Design Bureau Polyot has ever attempted nor is attempting to give exclusive rights to FAI or OHB Systems for marketing of the Cosmos rocket.

The decision about giving exclusive rights to the established joint venture Cosmos USA was disavowed in January 1998 (attached is the copy of the letter to ASA, which was one of the co-founders of CosmosUSA).

Our company does not have any documents regarding cancellation of our Commercial License For Launches of Russian and Foreign Satellites (When we made a verbal inquiry to the licensing authorities at the RKA (Russian Space Agency) concerning the license, they said that no such decision had been made). PO Polyot is currently the only enterprise in Russia carrying out all types of work with the Cosmos launch vehicles from manufacturing to launch.

All that has happened recently at Polyot is just internal problems and has nothing to do with our obligations to our Russian and foreign partners.

We confirm our readiness and interest to continue our mutual beneficial cooperation with FAI in development and operation of the telecommunication system FAISAT-COSCON.

General Director
O.P. Dorofeev

Chief Designer
V.V. Markelov



Конструкторское бюро
ПРОИЗВОДИТЕЛЬНОГО
ОБЪЕДИНЕНИЯ "ПОЛЕТ"

644021, г. Омск-21

Для телеграмм: г. Омск-21 "УТРС"

Телефакс 116, ж. д. код 2084

Иск. № П/300

"27" февраля 1992 г.

На № _____ от _____ 199 г.

ПРЕЗИДЕНТУ
FINAL ANALYSIS Inc.
MODANLO NADER

Уважаемый Господин МОДАНЛО,

мы выражаем сожаление по поводу таинственного, дезинформационного заявления г. Топалова о сотрудничестве ПО "ПОЛЕТ" с фирмой Final Analysis, Assigned Space Access и ОНВ Бутыча, опубликованное в COMMUNICATION DAILY 23.02.88 г.

При этом подтверждаем, что ПО "ПОЛЕТ" и КБ ПО "ПОЛЕТ" действия по предоставлению эксклюзивных прав на маркетинг РН "КОСМОС" фирмам FAI и ОНВ Siatama не предпринимали и не предпринимают.

Принятое 27.12.88 г. Решение ... о предоставлении эксклюзивных прав создаваемому совместному предприятию "Созвездие USA" деактивировано в январе 1988 г. (копия письма в адрес фирмы ASA, которая выступала в качестве соучредителя "СОЗВЕЗДИЯ USA" прилагается).

Наше предприятие не располагает документами об отмене у нас Лицензии на коммерческий запуск отечественных и зарубежных КА (на устный запрос работники РКА, ответственные за лицензии, отметили, что такого Решения не существует). В настоящее время ПО "ПОЛЕТ" является единственным в России предприятием, осуществляющим проведение всех необходимых работ с РН "КОСМОС" от изготовления до обеспечения запуска.

Приходящие на предприятие события являются только внутренними и не влекут на обязательства перед российскими и иностранными партнерами.

Мы подтверждаем готовность и заинтересованность во взаимовыгодном сотрудничестве с фирмой FAI по созданию и эксплуатации коммуникационной системы "FAIBAT-COSMOS".

ГЕНЕРАЛЬНЫЙ ДИРЕКТОР

ГЛАВНЫЙ КОНСТРУКТОР

О.П. ДОРОЖЕВ

В.В. НАРКЕЛОВ