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April 16, 2001

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APR 16 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie R. Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

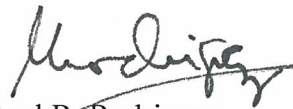
Re: Petition to Dismiss or Deny; File No. SAT-LOA-19980508-00043

Dear Ms. Salas:

The attached Petition to Dismiss or Deny includes a facsimile copy of a signed declaration by Mr. Ken Gross, Manager of Orbital Resources, LLC. An original of the signed declaration will be filed very shortly.

Please contact undersigned with any questions or concerns.

Sincerely,



Raul R. Rodriguez
Counsel to Orbital Resources, LLC

RRR/rjc
Enclosure

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In Re: Application of)
)
LORAL SPACE & COMMUNICATIONS LTD.)
(formerly International Private Satellite Partners,)
L.P. d/b/a Orion Atlantic, L.P.))
)
For Authority to Launch and Operate An)
International Communications)
Satellite at 37.5° West Longitude)

File No. SAT-LOA-19980508-00043

RECEIVED

APR 16 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

PETITION TO DISMISS OR DENY

Orbital Resources, LLC (“Orbital Resources”), by counsel and pursuant to Section 25.154 of the Commission’s rules, hereby requests that the Commission dismiss the above-referenced application (“Loral Application”) without prejudice or, alternatively, that it deny the portion of the application through which Loral seeks to expand its Ku-band coverage area in conflict with an already pending application filed by Columbia Communications Corporation (“Columbia”). Orbital Resources files the instant Petition to support and supplement the separate Petition to Dismiss or Deny being filed by Columbia Communications Corporation (“Columbia”).

I. STATEMENT OF INTEREST

Orbital Resources is a company formed by Clifford Laughton and Kenneth Gross, previously the sole shareholders of Columbia. In September 2000, pursuant to FCC approval, GE American Communications, Inc. (“GE Americom”) purchased Columbia from Laughton and Gross, and the company became a wholly-owned subsidiary of GE Americom. Under the terms of the agreement with GE Americom, however, Laughton and Gross retained a financial interest in several applications filed by Columbia that remain pending before the Commission. One of these applications seeks authority to modify the Columbia C-band authorization for 37.5° W.L. to allow the company to

provide Ku-band service between points in the Southern Hemisphere.¹ Accordingly, the principals of Orbital Resources retain a financial interest with respect to the 37.5° W.L. orbital location that is implicated by the authority that Loral seeks in this proceeding.

II. ARGUMENT

A. **The Commission Has Correctly Determined That Loral Has No Right To Operate C-Band Satellite Capacity At The 37.5° W.L. Orbital Location.**

As an initial matter, Orbital Resources notes with approval that the Commission has already determined that Loral has no right to seek C-band authority at the 37.5° W.L. orbital location.² As discussed below, the application, originally filed by Orion Atlantic, L.P. (“Orion”), was a belated attempt to lay claim to the 37.5° W.L. orbital location for provision of C-band fixed-satellite services³ to block Columbia’s access to these resources. Columbia has now been providing C-band service at this location for nearly three years. As the Commission has correctly concluded, Loral had no legitimate claim to authority to operate C-band transponders at this location.

B. **Loral’s Application Is Defective As Filed, And Should Be Dismissed.**

Although the Commission has appropriately rejected the C-band portion of Loral’s application, the remaining portion of the application cannot be easily separated from the improper motives that led to its filing. As Columbia has previously observed, the filing of multiple applications

¹ See Application of Columbia Communications Corp. For Modification of Authorization to Permit Operation of Ku-Band Satellite Capacity on the Columbia 515 Satellite, File No. SAT-MOD-19990128-00017 (filed January 28, 1999) (“Columbia Application”).

² See FCC Public Notice, “Loral Space & Communications Ltd. Application for Authority to Launch and Operate a Hybrid Ku-Band/C-Band Space Station File No. SAT-LOA-19980508-00043,” DA 01-685 (released March 15, 2001) (“We have already considered and rejected arguments that Orion or Loral have any rights to C-band authority at the 37.5° W.L. orbital location.”), *citing Columbia Communications Corporation*, 13 FCC Rcd 17772, 17777 (¶ 13) (IB 1998).

³ See Columbia Opposition to Petition to Deny, File No. SAT-MOD-19990128-00017, at 6-8 (filed April 20, 1999). Initially, Orion had sought C-band authority by requesting modification of its existing Ku-band authorization for its existing in-orbit satellite at 37.5° W.L. See FCC File Nos. 76-SAT-MP/ML-98 and 87-SAT-WAIV-98. The Commission appropriately dismissed this application as “unacceptable for filing” because Orion was actually seeking authority to construct a new hybrid C-/Ku-band satellite, and had failed to submit the proper fee for a new satellite system. See Letter to Julian L. Shepard, Counsel to Orion, from Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC File Nos. 76-SAT-MP/ML-98 and 87-SAT-WAIV-98 (dated March 6, 1998).

by Orion, Loral's predecessor in interest, as a means of preventing Columbia from operating C-band capacity at 37.5° W.L. was a transparently anti-competitive act, and an application that is filed for an improper purpose is not entitled to Commission consideration.⁴

In this instance, there is no doubt that Loral's application, as filed by Orion, was submitted for the improper purpose of impeding Columbia's access to C-band capacity at 37.5° W.L. The application was a response to the joint announcement by Columbia and INTELSAT in December 1997 of a settlement of their long-standing dispute concerning the 41° W.L. orbital location, where Columbia had originally operated its Atlantic C-band capacity beginning in 1992. Within a few weeks, on January 14, 1998, Orion filed its first application for C-band authority, seeking simply to modify its existing 37.5° W.L. authorization.⁵

In March 1998, the Commission appropriately dismissed the Orion modification application as "unacceptable for filing" because the proposal was incapable of implementation. In effect, Orion was seeking future authority for C-band capability at 37.5° W.L. by means of changing its existing authority, but without any showing that it would actually modify its existing satellite (or how it would achieve such an in-orbit upgrade).⁶

Only after Orion's initial effort to thwart C-band use by Columbia at 37.5° W.L. was properly rejected by the Commission did Orion file a complete application to construct a C/Ku-band

⁴ See *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327, 333 (1945) ("We only hold that where two *bona fide* applications are mutually exclusive the grant of one without a hearing to both deprives the loser of the opportunity which Congress chose to give him."). Indeed, in *Ashbacker*, the Court pointedly noted that there was no suggestion in the case before it that the petitioner's application "was not filed in good faith." *Id.* at 333 n.9. This footnote appears to have been included specifically in response to the concern expressed by the FCC in its brief that the requirement of a comparative hearing in all cases of conflicting applications would encourage the filing of "strike" applications for the purpose of thwarting competitors. See *Pueblo Broadcasting Corporation et al.*, 57 RR 2d 1053 (Rev. Bd. 1985), citing FCC Brief at 12-13, *Ashbacker*, 326 U.S. 327 (1945); see also discussion, *infra*. Accordingly, non *bona fide* applications are not entitled to processing.

⁵ See FCC File Nos. 76-SAT-MP/ML-98 and 87-SAT-WAIV-98.

⁶ See Letter to Julian L. Shepard, Counsel to Orion Network Services, Inc., from Thomas S. Tycz, Chief, Satellite and Radiocommunication Division, FCC File Nos. 76-SAT-MP/ML-98 and 87-SAT-WAIV-98 (dated March 6, 1998).

hybrid satellite at this location. In that application, Orion advanced a design for a satellite capable of preempting any other significant use of spectrum at the 37.5° W.L. orbital location. Although different in form, the purpose of the application remained the same — blocking Columbia from competing with Orion by denying it access to any sliver of available unused spectrum at 37.5° W.L. The taint of this improper motive cannot be removed from Loral's application simply by excising the C-band portion of the filing and leaving the Ku-band portion in place. The application should be dismissed in its entirety as inconsistent with Commission procedures.

In particular, as Columbia has noted in the proceeding concerning its proposed modification,⁷ the Commission has a long-standing policy prohibiting applications submitted, in significant part, for the purpose of blocking the provision of service by competitors. Such “strike conduct” is strongly disfavored, and the Commission has commented that “any licensee found to have participated in the filing of an application, one of whose purposes is the obstructing, impeding, or delaying of a grant of another application, places in jeopardy the authorization for the existing station which is the intended beneficiary of the strike application.”⁸

The Commission has established a four factor analysis for determining whether an application is a strike application: “(1) the timing of the application; (2) the economic and competitive benefit occurring from the application; (3) the good faith of the applicant; and (4) the availability of other frequencies.”⁹ Under each of the relevant factors, Loral/Orion's actions violated the Commission's policies. First, as described above, the initial C-band-only filing by Orion came less than one month after Columbia publicly indicated its intent to seek C-band operating authority at 37.5°

⁷ See Columbia Opposition to Petition to Deny, File No. SAT-MOD-19990128-00017, at 8-11 (filed April 20, 1999).

⁸ See *Asheboro Broadcasting Company*, 20 FCC 2d 1, 3 (1969). While the majority of cases dealing with strike conduct have been in the broadcast application context, the prohibition is generally applicable to all Title III applicants. See e.g. *Maine Paging, Inc.* 6 FCC Rcd 2189 (1991); *Report and Order in PR Docket No. 90-481*, 6 FCC Rcd 7297, 7309 & n. 121 (1991) (citing the need to deal “severely” with strike conduct in the context of Private Land Mobile Radio applications).

⁹ *Grengo Inc.*, 28 FCC 2d 166, 167 (1971).

W.L. Only after that application was properly rejected did Orion file for a C/Ku-band hybrid satellite — yet Orion 1 was at that point only three years into its operational lifetime, and would not require replacement for the better part of a decade. Moreover, the request to operate C-band space segment at 37.5° W.L. was Orion's sole request in its history to operate in this frequency band prior to its sale to Loral. The only rational explanation for the timing and novelty of the filing was that Orion intended to block Columbia from providing C-band service at the 37.5° W.L. orbital location.

Second, Columbia's application to move its primary Atlantic region orbital location from 41° W. L. to 37.5° W.L. was critical to its continued viability as a provider of satellite services in this region. The potential benefit to Orion of filing the application was therefore a significant reduction in price competition in this market through the likely crippling of Columbia's business.

Third, there is no evidence that Orion filed its applications in good faith. The initial C-band-only modification application was so clearly incapable of being implemented that the Commission never accepted it for filing, and dismissed it summarily. Moreover, the subsequent hybrid filing was not a part of any concrete plan for the orbital location. Public statements made by Orion just prior to the application's filing demonstrate its lack of any definitive plan to proceed in the near term with construction of the satellite applied for in May 1998. For example, Orion declared vaguely in a filing to the Commission that it had "plans to operate at the 37.5° W.L. location into the future and will likely operate a hybrid C/Ku-band second generation satellite."¹⁰ Richard Shay, then Senior Vice-President of Orion, also reportedly stated that "it is *possible* the [Orion 1 satellite at 37.5° W.L.] will be moved to another slot and replaced with an *as-yet unannounced* bird equipped with C-band transponders."¹¹ These equivocal statements concerning "possible" use of the 37.5° W.L. for C-band service lay bare the original motivation for the application — to preserve future, as yet indistinct,

¹⁰ Comments and Opposition of Orion Network Systems, Inc. to Comsat's Further Supplement, File No. CSS-93-009-(4)-A, at 9 n.17 (filed February 2, 1998) (emphasis added).

¹¹ "Columbia and Orion Spar Over Intelsat 515 Relocation Plan," Satellite News, Vol. 21, No. 9 at 2 (March 2, 1998) (emphasis added).

options for use of these frequencies by blocking Columbia's imminent plan to use this orbital slot, preventing Columbia, or anyone else, from securing resources necessary to compete with Orion.¹²

The defective nature of the Loral application goes well beyond procedural particulars, however, in that the technical proposal originally advanced by Loral anticipated deployment of a hybrid satellite with twenty-eight C-band transponders.¹³ The fact that the Commission has now declared Loral ineligible to apply for this C-band capacity will necessarily impact substantially the design and configuration of any satellite that it would ultimately build, presumably prompting an increase in the size of the Ku-band payload. Moreover, as there is no indication that Loral's current Ku-band satellite at 37.5° W.L. requires near term replacement, any new satellite is unlikely to be deployed for many more years. For this reason, the portion of the 1998 proposal upon which the Commission now seeks comment does not represent a concrete spacecraft proposal eligible for Commission consideration.¹⁴ The appropriate course in such a circumstance is dismissal without prejudice.

C. Loral Is Not Financially Qualified.

The Commission requires that all applicants for fixed-satellite space station licenses provide proof of their basic financial qualifications. In brief, applicants must demonstrate they have current assets and operating income sufficient to meet the costs of constructing, launching and

¹² The fourth *Grengo* factor is geared to the broadcast context, where frequency studies are typically performed to determine allotment availability. While this particular showing is not relevant here, it is nonetheless significant that Loral already operates significant Ku-Band capacity at 37.5° W.L., and during neither the dozen year period leading up to its commencement of operations, nor the three year operational period of ORION 1 prior to Columbia's expression of interest in the 37.5° W.L. orbital location did Orion advance any proposal to expand to C-band or Southern Hemispheric Ku-band service. Accordingly, Loral's operations at 37.5° W.L. are clearly not dependent on the authority it sought in May 1998, and it has adequate capacity under its current authorization to provide service to the public. In this sense, adequate "alternative" frequency resources have already been made available to Loral.

¹³ See Loral Application, Exhibit 1 at 2.

¹⁴ See 47 C.F.R. § 25.114(b) ("Each application for a new or modified space station authorization must constitute a concrete proposal for Commission evaluation . . .").

operating the space station for one year after launch.¹⁵ Loral's application provides an estimated construction, launch and operating expenses at an estimated 251 million dollars and provides audited balance sheets for the one year period prior to the date of the application.

At the time Loral filed the instant application, shares of its stock were trading at approximately \$30 per share. As of the date of this Petition, shares of Loral stock are trading at approximately \$1.75 per share. Clearly there has been a dramatic change in Loral's financial standing since the instant application was filed in May 1998, enough to call into question whether Loral has the adequate financial resources to meet the Commission's financial qualification requirements. At a minimum, the Commission must require Loral to supplement the instant application with an updated financial showing. Absent an adequate updated showing that Loral's present assets and operating income are sufficient to cover the cost of constructing, launching and operating the space station for a period of one year, the application must be dismissed.

D. The Commission Cannot Consider Loral's Request To Expand Its Ku-Band Service Without First Considering Columbia's Long-Pending Application To Offer Ku-Band Services In The Southern Hemisphere, Where Loral Currently Provides No Service From Its 37.5° W.L. Orbital Location.

Even if Loral resubmits its application, the Commission cannot process the application without first considering Columbia's long-pending modification application, which seeks authority to operate existing Ku-band capacity on its 515 satellite at the same orbital location to provide service to the Southern Hemisphere within the Atlantic Ocean Region.¹⁶ Columbia filed this application in January 1999, and sought expedited consideration of its request to allow it to offer service immediately using its in-orbit capacity.¹⁷ Despite these considerations, the Commission has not yet acted on the

¹⁵ See 47 C.F.R. Section 25.140(c)(1).

¹⁶ See Columbia Application at 1-2.

¹⁷ See Letter from David S. Keir, Counsel to Columbia, to International Bureau, FCC, at 1 (dated January 28, 1999) (transmitting Columbia Application).

application. As a result of this significant delay, Columbia has lost millions of dollars of potential revenue and potential customers have been left without meeting their service requirements.¹⁸

Two years ago, when the Commission placed Columbia's modification application on Public Notice, Loral asserted that the "FCC may not grant Columbia's application for a permanent modification without also considering [Loral's] application at 37.5° W.L."¹⁹ Loral thus conceded that the Columbia application is entitled to be processed. Due to the defective nature of the Loral hybrid satellite proposal that overlaps Columbia's, there is now no impediment to expeditious grant of the modification that Columbia seeks. Columbia's proposed Ku-band operations, targeted to areas left unserved by Loral, would not interfere in any way with Loral's current service.²⁰ Moreover, Columbia's Southern Hemisphere service would not impede Loral's legitimate right to replace its existing satellite, by filing an appropriate application for a follow-on satellite.

Notably, when Orion filed its original application to provide service at the 37.5° W.L. orbital location, it had the opportunity to request authority for a spacecraft capable of covering both the Northern and Southern Hemispheres. Presumably, it made a conscious business decision not to do so in order to maximize capacity within its Northern Hemisphere footprint, where there were more potential customers. Whatever the reasons for this decision, however, Loral cannot reasonably be permitted to impede the introduction of new service to the public that Columbia has proposed to offer simply because Loral might like to offer similar service itself at a later time. Columbia is legally, technically and financially qualified to provide immediate Ku-band service in the Southern Hemisphere. The only factor missing in order for Columbia to initiate service and meet customer requirements, is Commission authority which is being withheld for no discernable legal or policy basis.

¹⁸ See Attachment 1.

¹⁹ Loral Petition to Deny, File No. SAT-MOD-19990128-00017, at 4 (filed April 2, 1999).

²⁰ See Columbia Application at 1-2 & 5-6.

Accepting and processing a new Loral application ahead of Columbia's, when Columbia has proposed to offer immediate Ku-band service to customers in the Southern Hemisphere, would contravene fundamental Commission policies favoring the timely use of available spectrum and prohibiting "warehousing" of this important resource.²¹ The Commission has expressed its "conviction that spectrum should not lie fallow when there are applicants ready and willing to use it."²² More specifically, in the context of satellite services, it has made clear that its spectrum assignment policies are intended to prevent conduct that would "hinder the availability of services to the public at the earliest possible date by blocking entry by other entities willing and able to proceed immediately with the construction and launch of their satellite systems."²³

In this instance, Columbia has offered a concrete proposal to implement Ku-band service to the Southern Hemisphere immediately, while Loral's best-case timetable, even under its rejected hybrid proposal filed three years ago, would not have offered such service for several more years.²⁴ Columbia's then-president met with International Bureau staff on June 4, 1999 to reiterate its strong interest, prompted by customer inquiries, in activating the Ku-band capacity on the Columbia 515 satellite to provide service between points in the Southern Hemisphere. A follow-up letter dated August 30, 1999 was sent to the Chief of the Satellite Division with supporting letters from customers

²¹ See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, 11 FCC Rcd 18178, 18196 (¶ 52) (1996).

²² See, e.g., *Mobilcom of Pittsburgh, Inc.*, 8 FCC Rcd 351 (¶ 6) (1993).

²³ *National Satellite Exchange, Inc.*, 7 FCC Rcd 1990, 1991 (¶ 8) (1992).

²⁴ See Loral Application at Exhibit 5 (May 8, 1998) (proposing commencement of service in February 2003, assuming commencement of construction in April 2001). Loral, in fact, has a history of warehousing spectrum for long periods without proceeding with system construction. Less than ten degrees away from the 37.5° W.L. orbital location is the 47° W.L. orbital location – where Columbia has been operating in-orbit C-band capacity for the past five years, and has under construction a follow-on satellite to expand its service and coverage in this band – at which Loral/Orion has held a Ku-band authorization for *nearly sixteen years*, and has done nothing discernible to implement service. In light of this long record of non-performance, it would not be in the public interest to consider grant of additional Ku-band resources to Loral beyond those currently assigned to it.

Global One and Justice Technology. (Copies of this correspondence appears in Attachment 1 to this Petition, as well as yet another letter of interest from Kingston TLI.) Accordingly, dismissal of Loral's defective proposal, without prejudice, and expeditious grant of Columbia's modification application is in the public interest.

III. CONCLUSION

For all of the foregoing reasons, Loral's application should be dismissed without prejudice. In addition to promoting the integrity of the Commission's processes and discouraging the filing of improper "strike" applications, such action will allow the Commission to proceed quickly to grant Columbia Communications Corporation's long-pending application to operate Ku-band capacity for Southern Hemisphere service at 37.5° W.L. Alternatively, the Commission should at least deny Loral's application to the extent that it conflicts with Columbia's request to offer immediate Ku-band service to the Southern Hemisphere.

Respectfully submitted,

ORBITAL RESOURCES, LLC

By: 

Raul R. Rodriguez
David S. Keir

Leventhal, Senter & Lerman PLLC
2000 K Street, N.W., Suite 600
Washington, D.C. 20006
(202) 429-8970


April 16, 2001

Its Attorneys

DECLARATION

I, **Kenneth Gross**, hereby declare under penalty of perjury that I have read the foregoing "Petition to Dismiss or Deny" and that the facts set forth therein, except those of which official notice may be taken, are within my personal knowledge and are true and correct.

April 16, 2001



Kenneth Gross
Manager
Orbital Resources, LLC

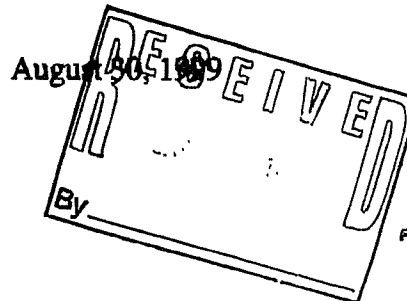
Attachment 1

RETURN COPY



COLUMBIA COMMUNICATIONS CORPORATION

7200 WISCONSIN AVENUE, SUITE 701 • BETHESDA, MARYLAND 20814
TELEPHONE (301) 907-8800 • FACSIMILE (301) 907-2420



RECEIVED

AUG 30 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Mr. Thomas S. Tycz
Chief, Satellite & Radiocommunication Division
International Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Columbia Communications Corp. Application for Authority to Operate Ku-Band Transponder Capacity on the Columbia 515 Satellite at 37.7E W.L. in the Southern Hemisphere (FCC File No. SAT-MOD-19990128-00017)

Dear Mr. Tycz:

This letter is written as a follow-up to our meeting of June 4, 1999 concerning the above-referenced application. At that time, Columbia reiterated its strong interest, prompted by inquiries from potential customers, in activating currently unused Ku-band capacity on the Columbia 515 satellite to provide service between points in the Southern Hemisphere. As emphasized both at our meeting and in the application itself, Columbia's proposed service would not cause harmful interference to the operations of Loral Orion at 37.5E W.L. because its Orion 1 satellite provides Ku-band service only in the Northern Hemisphere.

Attached to this letter are copies of two supporting letters from Global One and Justice Technology Corporation, two space segment users that have expressed significant interest in leasing Ku-band capacity on Columbia 515. In order for Columbia to meet such customer needs, expeditious action on the pending request is critical. Because the 515 is expected to be operational for only about 28 more months, authority must be granted soon if it is to be of use to Columbia's customers. Without 2+ years of available satellite life, it will not be cost-effective for customers to construct or re-point ground facilities to utilize the Columbia satellite.

Mr. Thomas S. Tycz
August 30, 1999
Page -2 -

Accordingly, Columbia respectfully requests that the Commission issue a decision in this matter as expeditiously as possible. Should there be any questions concerning this matter, please contact Columbia's regulatory counsel, Raul Rodriguez and David Keir, at (202) 429-8970.

Respectfully submitted,



Kenneth Gross
President and Chief Operating Officer

Attachments

Global One



Global One
12490 Sunrise Valley Drive
Reston, VA 22096 USA
Phone: 703 689 6000
Fax: 703 689 5176

 Deutsche
Telekom

 France Telecom

 Sprint

August 23, 1999

Mr. Kenneth Gross
President and COO
Columbia Communications Corporation
7200 Wisconsin Avenue
Suite #701
Bethesda, Maryland 20814

Dear Mr. Gross,

Global One is an international service provider offering a broad range of telecommunications services in non-US markets around the globe. Although Global One does not operate in the United States, Global One relies upon vendors like Columbia Communications to provide the cost effective facilities that are necessary components of our service offerings in offshore markets. In this regard, we are currently using Columbia-515 (located at 37.5°W) to meet some of our communications requirements within Latin America. While the C-band capacity on the Columbia-515 adequately serves most of our current requirements, the addition of Ku-band to Columbia's current authorizations would provide Global One with additional facilities options to meet our current and anticipated Latin American requirements. This would also be particularly useful in supporting the continued development of telecommunications competition in the region.

Global One strongly supports Columbia Communications' request for authority to utilize its Ku-band capacity over Latin America. The immediate availability of additional Ku-band capacity on the satellite will serve the public interest by increasing the supply of Ku-band facilities and ensuring that there is Ku-band price competition in the market for regional satellite capacity.

Sincerely,



Hank Schmauss
Assistant Vice President
Post Sales
The Americas

August 18, 1999

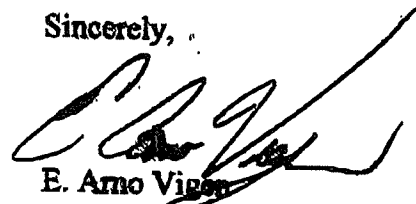
Mr. K. Gross
President and COO
Columbia Communications Corporation
7200 Wisconsin Avenue
Suite #701
Bethesda, Maryland 20814

Dear Mr. Gross:

Justice Technology is an international carrier providing a full range of telecommunications services in Latin America. As such, Justice Technology relies upon vendors like Columbia Communications to provide the cost-effective facilities that are necessary components of our service offerings. In this regard, we are currently using Columbia-515 (located at 37.5°W) to meet some of our communications requirements in Latin America. While the C-band capacity on the Columbia-515 adequately serves most of our requirements, the addition of Ku-band to Columbia's current authorizations would provide Justice Technology with additional facilities options to meet our other Latin American requirements.

Justice Technology strongly supports Columbia Communications' request for authority to utilize its Ku-band capacity over Latin America. The immediate availability of additional Ku-band capacity on the satellite will serve the public interest by increasing the supply of Ku-band facilities and ensuring that there is Ku-band price competition in the market for North-South satellite capacity.

Sincerely,



E. Arno Vigen
Chief Operating Officer
Justice Technology

AV:rr

CERTIFICATE OF SERVICE

I, Tim Jordan, do hereby certify that on this 30th day of August, 1999, copies of the foregoing Letter to Thomas S. Tycz were delivered, as indicated, to the following parties:

VIA HAND DELIVERY

Fern J. Jarmulnek
International Bureau
Federal Communications Commission
445-12th Street, NW
Room 6-A523
Washington, DC 20554

Cassandra Thomas
International Bureau
Federal Communications Commission
445-12th Street, NW
Room 6-A666
Washington, DC 20554

John Martin
International Bureau
Federal Communications Commission
445-12th Street, NW
Room 6-A426
Washington, DC 20554

John M. Coles
International Bureau
Federal Communications Commission
445-12th Street, NW
Room 6-A630
Washington, DC 20554

VIA U.S. MAIL

Stephen R. Bell
Jennifer D. McCarthy
David M. Don
Willkie Farr & Gallagher
Three Lafayette Center
1155-21st Street, NW
Washington, DC 20036-3384



Tim Jordan



Kingston TLI Ltd

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Fax: + 44 (0)1494 878478
web site: www.kingston-tli.co.uk

Mr. K. Gross
President and COO
Columbia Communications Corporation
7200 Wisconsin Avenue
Suite #701
Bethesda
Maryland 20814

Thursday, September 09, 1999

Dear Mr. Gross

Kingston-TLI is an international carrier providing a full range of telecommunications services around the globe. As such, Kingston-TLI relies upon vendors like Columbia Communications to provide the cost effective facilities that are necessary components of our service offerings. In this regard, we are currently using Columbia-515 (located at 37.5°W) to meet some of our communications requirements in North America and are bidding for services to Latin America. While the C-band capacity on the Columbia-515 adequately serves most of our requirements, the addition of Ku-band to Columbia's current authorizations would provide Kingston-TLI with additional facilities options to meet our other Latin American requirements.

Kingston-TLI strongly supports Columbia Communications' request for authority to utilize its Ku-band capacity over Latin America. The immediate availability of additional Ku-band capacity on the satellite will serve the public interest by increasing the supply of Ku-band facilities and ensuring that there is Ku-band price competition in the market for North-South satellite capacity.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Russell', written over a horizontal line.

CHRIS RUSSELL
Deputy Managing Director

CERTIFICATE OF SERVICE

I, Rebecca J. Cole, do hereby certify that on this 16th day of April, 2001, I sent by U.S. first-class, postage prepaid mail (unless otherwise indicated), a copy of the foregoing Petition to Deny to the following:

John P. Stern
Loral Space & Communications, Ltd.
1755 Jefferson Davis Highway, Suite 1007
Arlington, VA 22202-3501

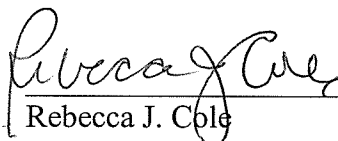
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Peter A. Rohrbach
Hogan & Hartson, LLP
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