

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Silkwave Africa, LLC)	File No. SAT-LOA-20200921-00112
)	
Application Pursuant to Section 201(c)(11))	
of the Communications Satellite Act of 1962,)	
as Amended, 47 U.S.C. § 701 et seq., and the)	
Implementing Regulations at 47 CFR)	
§25.114, for a New Space Station)	

**PETITION TO ADOPT CONDITIONS TO
AUTHORIZATION AND LICENSE**

Pursuant to Executive Order 13913, the National Telecommunications and Information Administration (NTIA) submits this Petition to Adopt Conditions to Authorization and License (Petition) on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee).¹ Through this Petition, and pursuant to section 1.41 of the Commission’s Rules, the Committee advises the Commission that it has no objection to the Commission approving the above-captioned application, provided that the Commission conditions its approval on the assurances of Silkwave Africa LLC (Silkwave), to abide by the commitments and undertakings set forth in the March 30, 2021, Letter of Agreement (LOA), a copy of which is attached hereto.²

The above-referenced proceeding involves an application seeking Commission approval to relocate and operate a geostationary satellite at the 21° E.L. orbital slot in the 7025-7075 MHz (Earth-to-space) and 1452-1492 MHz (space-to-Earth) to provide Broadcast-Satellite Service to

¹ Exec. Order No. 13913, § 9(h), 85 Fed. Reg. 19643, 19647-48 (2020). The Executive Order directs the Committee to “assist the [Commission] in its public interest review of national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector.” *Id.* § 3(a), 85 Fed. Reg. at 19643.


² 47 C.F.R. § 1.41.

Africa and the Middle East. The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis and has accorded deference to the views of other U.S. government agencies with expertise in those areas.³

After discussions with representatives of Silkwave in connection with the above-captioned application, the Committee has concluded that the additional commitments and undertakings set forth in the LOA will help ensure that those agencies with responsibility for protecting national security, enforcing the law, and preserving public safety can proceed appropriately to satisfy those responsibilities.

Accordingly, the Committee advises the Commission that it has no objection to the Commission granting the above-captioned application, provided that the Commission conditions its consent on compliance with the March 30, 2021, LOA attached to this filing.

Respectfully submitted,



Kathy Smith
Chief Counsel

National Telecommunications and
Information Administration
1401 Constitution Avenue, NW
Washington, DC 20230
(202) 482-1816

April 23, 2021

³ See *Comsat Corporation d/b/a Comsat Mobile Communications*, 16 FCC Rcd. 21661, 21707, ¶ 94 (2001).



March 30, 2021

Chief, Foreign Investment Review Section (FIRS)
Deputy Chief, Compliance and Enforcement (FIRS)
On Behalf of the Assistant Attorney General for National Security
United States Department of Justice
National Security Division
175 N Street, NE
Washington, DC 20530

Subject: FCC File No. SAT-LOA-20200921-00112, Application by Silkwave Africa LLC, pursuant to Section 201(c)(11) of the Communications Satellite Act of 1962, as amended, 47 U.S.C. § 701 *et seq.*, and the implementing regulations at 47 CFR § 25.114, for a new space station authorization.

Dear Sir:

This Letter of Agreement (“LOA” or “Agreement”) sets forth the commitments that Silkwave Africa, LLC (“Silkwave”) makes to the U.S. Department of Justice (“USDOJ”) to address national security and law enforcement risks arising from Silkwave’s application to the Federal Communications Commission (“FCC” or “Commission”) requesting authority to drift the AsiaStar satellite to 21E to Bring-Back-In-Use (“BBIU”) the AFRIBSS frequencies pursuant to Section 201(c)(11) of the Communications Satellite Act of 1962, as amended, 47 U.S.C. § 701 *et seq.*, and the implementing regulations at 47 CFR § 25.114.

Silkwave certifies as true and correct, under penalties outlined in 18 U.S.C. § 1001, all statements that Silkwave or its representatives have made to USDOJ, including the Federal Bureau of Investigation (“FBI”), the Department of Homeland Security, the Department of Defense, and the FCC in the course of the review of the above-referenced application that was conducted pursuant to Executive Order 13913,¹ and it hereby adopts those statements as the basis for this LOA.

Definitions

1. For purposes of this LOA, the following definitions apply:
 - a. “Access” means: (1) to enter a location; or (2) to obtain, read, copy, edit, divert, release, affect, alter the state of, or otherwise view data or systems in any form, including through information technology (IT) systems, cloud computing platforms, networks, security systems, and equipment (software and hardware). For the avoidance of doubt, Access shall be construed broadly to include rather than exclude considered conduct.

¹ Exec. Order No. 13913, 85 Fed. Reg. 19643 (Apr. 8, 2020).

b. “Date of FCC Approval” means the date on which the FCC approves Silkwave’s application.

c. “Domestic Communications” (“DC”) means:

- (i) Wire Communications, or Electronic Communications (whether stored or not), from one location within the United States, including its territories, to another location within the United States; or
- (ii) The U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States or its territories.

d. “Domestic Communications Infrastructure” (“DCI”) means any Silkwave system that supports any communications originating or terminating in the United States, including its territories, including any transmission, switching, bridging, and routing equipment, and any associated software (with the exception of commercial-off-the-shelf (“COTS”) software used for common business functions, *e.g.*, Microsoft Office) used by, or on behalf of, Silkwave to provide, process, direct, control, supervise, or manage DC but would not include the systems of entities for which Silkwave has a contracted arrangement for interconnection, peering, roaming, long-distance, or wholesale network access.

e. “Foreign” means non-United States, or its territories.

f. “Government” means any government, or governmental, administrative, or regulatory entity, authority, commission, board, agency, instrumentality, bureau or political subdivision, and any court, tribunal, judicial or arbitral body.

g. “Managed Network Service Provider” (“MNSP”) means any third party that has Access to Principal Equipment for the purpose of:

- (i) network operation; provisioning of Internet and telecommunications services; routine, corrective, and preventative maintenance, including switching, routing, and testing; network and service monitoring; network performance, optimization, and reporting; network audits, provisioning, creation and implementation of modifications or upgrades; or
- (ii) provision of DC or operation of DCI, including: customer support; Operations Support Systems (“OSS”); Business Support Systems (BSS); Network Operations Centers (“NOCs”); information technology; cloud operations/services; 5G (SDN, NFV, Applications); and datacenter services and operations.

h. “Network Operations Center” (“NOC”) means any locations and facilities performing network management, monitoring, accumulating accounting and usage data, maintenance, user support, or other operational functions for DC.

i. “Offshore” means performing obligations of this LOA using entities and personnel outside of the territorial limits of the United States, whether or not those entities or personnel are employees of Silkwave.

j. “Outsource” means, with respect to services offered by Silkwave, supporting the services and operational needs of Silkwave at issue in this LOA using contractors or third parties.

k. “Principal Equipment” means all telecommunications and information network equipment (*e.g.*, satellites, satellite hardware, software, platforms, OS, applications, protocols) that supports core telecommunications or information services, functions, or operations.

l. “Satellite Operations Center” (“SOC”) means any location and facilities performing continuous satellite control and monitoring, to include health analysis and reporting, anomaly resolution, performance trending, payload monitoring, management, reconfiguration, and any other telemetry, tracking, and control (“TT&C”) related functions.

Outsourced and Offshored Services

2. Silkwave agrees to provide the USDOJ within 30 days from the Date of FCC Approval, a list of all Outsourced or Offshored service providers that provide services to Silkwave for USDOJ objection or non-objection. The list should include any Outsourced or Offshored service provider that provides services for:

- a. MNSP services;
- b. NOC(s);
- c. SOC(s);
- d. Domestic Communications (“DC”);
- e. Network maintenance services;
- f. Billing or customer support services; or
- g. Deploying any network elements, hardware, software, core network equipment, and network management capabilities that are owned, managed, manufactured, or controlled by a Foreign Government or non-public entities.

Silkwave further agrees to provide the name, address, phone number, website, and description of services provided for each Outsourced or Offshored provider included on the list submitted to USDOJ pursuant to this paragraph. USDOJ agrees to object or non-object to the Outsourced and Offshored service provider list within 45 days of receiving notice.

3. Silkwave agrees to notify USDOJ in writing no less than 30 days prior to the use of any new Outsourced or Offshored service providers that will provide any of the services described in Paragraph 2. Silkwave agrees that such notification shall include all of the identifying information contained in Paragraph 2 for the new Outsourced and Offshored service provider. USDOJ agrees to object or non-object to any new Outsourced or Offshored service providers, within 30 days of receiving notice.

Change in Ownership and Service Portfolio

4. Silkwave agrees to provide USDOJ notice of any changes to its business, including but not limited to corporate structure changes, ownership changes, corporate name changes, business model changes, corporate headquarter location changes, or business operation location changes no less than 30 days in advance of such change. Silkwave also agrees to provide USDOJ notice within 30 days of initiating any bankruptcy proceeding or any other legal proceeding undertaken for the purpose of liquidating, reorganizing, refinancing, or otherwise seeking relief from all or some of Silkwave's debts.

5. Silkwave agrees to provide USDOJ notice of any material change to its current portfolio of services, including leasing wholesale satellite bandwidth to third-parties not joining Silkwave's infotainment ecosystem, no less than 30 days in advance of such change for USDOJ objection or non-objection. USDOJ agrees to object or non-object within 30 days of receiving notice.

Annual Report

6. Silkwave agrees to provide an annual report to USDOJ regarding its compliance with this LOA, to include:

- a. Certification that there were no changes during the preceding year (where no changes were reported to USDOJ during the year);
- b. Notification(s) of any relationships with Foreign-owned telecommunications partners, including contractual relationships with broadcasters;
- c. Notification on progress for procuring replacement satellites for AfriStar and AsiaStar;
- d. Updated network diagrams and topology maps showing all facilities, Principal Equipment, NOCs, and SOC's;
- e. Updated organizational chart showing all owners with a 5% or greater ownership share;
- f. Notification of all filings or notices to the FCC in the prior year, and a copy of these filings if requested by USDOJ;
- g. A description of the services that Silkwave provides, to include any new offerings; and
- h. Notification of any reasonably foreseeable matter that would give rise to an obligation under this LOA.

The annual report will be due one year after the Date of FCC Approval and every year thereafter. Silkwave agrees to send electronic copies of the annual report and all notices and communications required under this LOA to the following individuals or any other individuals that DOJ identifies to Silkwave in the future: Christopher Clements, USDOJ (at Christopher.clements@usdoj.gov); Loyaan Egal, USDOJ and Eric S. Johnson, USDOJ (at Compliance.Telecom@usdoj.gov). Upon USDOJ request, Silkwave agrees to provide USDOJ with paper copies of any annual report, notices, or communications required under this LOA.

Site Visits

7. Silkwave agrees to permit USDOJ's requests for site visits and approve all requests to conduct on-site interviews of Silkwave employees or personnel.

Miscellaneous

8. Silkwave agrees to permit disclosure of confidential information submitted to the FCC pursuant to 47 C.F.R. § 0.442 to Federal government departments, agencies, and offices whose principals are listed in Exec. Order 13913 § 3.

9. If USDOJ finds that the terms of this LOA are inadequate to resolve any national security or law enforcement risks, Silkwave agrees to resolve USDOJ's concerns, according deference to the USDOJ's views on the need for modification. Rejection of a proposed modification shall not alone be dispositive, but failure to resolve national security or law enforcement risks may result in a request that the FCC modify, condition, revoke, cancel, terminate, or render null and void any relevant license, permit, or other authorization granted by the FCC to Silkwave or its successors-in-interest, or any other appropriate enforcement action required to address the concern.

10. Silkwave agrees that in the event that Silkwave breaches the commitments set forth in this LOA, to include conduct contrary to timely USDOJ objection to any notice submitted pursuant to this LOA, a recommendation may be made that the FCC modify, condition, revoke, cancel, enter other declaratory relief, or render null and void any relevant license, permit, or other authorization granted by the FCC to Silkwave or its successors-in-interest, in addition to pursuing any other remedy available by law or equity.

11. For purposes of counting days in this LOA, the day of the event that triggers the period is excluded, but every day thereafter is counted, including intermediate Saturdays, Sundays, and legal holidays. The last day of the period is included, but if the last day is a Saturday, Sunday, or legal holiday, the period will continue to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

12. Silkwave understands that, upon execution of this LOA by an authorized representative or attorney, or shortly thereafter, the FCC will be notified that there is no objection to grant of the application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles C. Wong', with a stylized flourish at the end.

Charles C. Wong
CEO
March 30, 2021
Silkwave Africa, LLC