

DA 97-2275

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

<p>In the Matter of</p> <p>Digital Satellite Broadcasting Corporation</p> <p>Application for Authority to Construct, Launch, and Operate Satellites in the Satellite Digital Audio Radio Service</p> <p>Primosphere Limited Partnership</p> <p>Application for Authority to Construct, Launch, and Operate Satellites in the Satellite Digital Audio Radio Service</p>	<p>File Nos. 12/13-DSS-P-93 28-DSS-LA-93 41-DSS-AMEND-93 60-DSS-AMEND-93 129-SAT-AMEND-96</p> <p>File Nos. 29/30-DSS-LA-93 16/17-DSS-P-93</p>
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ORDER

Adopted: October 28, 1997

Released: October 28, 1997

By Chief, International Bureau:

1. With this Order, we dismiss Digital Satellite Broadcasting Corporation ("DSBC") and Primosphere Limited Partnership's ("Primosphere") applications to launch and operate satellite systems in the geostationary-satellite orbit ("GSO") to provide satellite digital audio radio service (hereinafter referred to as "satellite DARS" or "SDARS").¹

2. On March 3, 1997, the Commission adopted service rules for SDARS, including rules to auction two 12.5 MHz SDARS authorizations in the 2320-2332.5 MHz and 2332.5-2345

¹ Satellite Digital Audio Radio Service (*satellite "DARS"*) is a radiocommunication service in which audio programming is digitally transmitted by one or more space stations directly to fixed, mobile, and/or portable stations, and which may involve complementary repeating terrestrial transmitters. 47 C.F.R. § 25.201.

MHz frequency bands.² On March 28, 1997, the Commission received the required Supplemental Information applications and upfront payments from the four eligible applicants. Participation in this auction was limited to the four pending applicants: American Mobile Radio Corporation ("AMRC"), Satellite CD Radio ("CD Radio"), DSBC and Primosphere.³ All four applicants participated in the SDARS auction, which began on April 1, 1997. On April 2, 1997, AMRC and CD Radio submitted winning bids for licenses to launch and operate satellite DARS systems.⁴ AMRC and CD Radio subsequently made post-auction down payments.⁵ On October 7, 1997 the Commission issued a public notice announcing that it was prepared to grant the SDARS authorizations and set forth payment instructions,⁶ and shortly thereafter AMRC and CD Radio submitted their final payments. The Commission has issued both authorizations to launch and operate.⁷

3. Since DSBC and Primosphere were unsuccessful bidders in the SDARS auction, and because there are no further licenses available in the allocated spectrum, we find that their applications should be dismissed. Accordingly, IT IS ORDERED, pursuant to Section 0.261 of the Commission's rules on delegation of authority, 47 C.F.R. § 0.261, that the applications of Direct Broadcasting Satellite Corporation, File Nos. 12/13-DSS-P-93, 28-DSS-LA-93, 41-DSS-AMEND-93, 60-DSS-AMEND-93, 129-SAT-AMEND-96, and Primosphere Limited Partnership, File Nos. 29/30-DSS-LA-93, 16/17-DSS-P-93, ARE DISMISSED.

Federal Communications Commission



Regina M. Keeney
Chief, International Bureau

² License No. (EBN001) and License No. (EBN002). See also *Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, IB Docket No. 95-91, Gen Docket No. 90-357, ¶ 165 (March 3, 1997) ("SDARS Order"). These rules limited auction participants to the four applicants on file.

³ See Public Notice, "Auction of Satellite Audio Radio Service (Auction No. 15): Bidders Qualified to Participate in the DARS Auction," released March 28, 1997.

⁴ CD Radio bid \$83,346,000 for use of the 2320-2332.5 MHz and AMRC bid \$89,888,888 for use of the 2332.5-2343 MHz frequency band.

⁵ *Id.* (instructing winning bidders to bring their total deposits up to 20 percent of their winning bids by April 16, 1997); See also SDARS Order at ¶ 165.

⁶ *FCC Announces it is Ready to Grant Satellite Digital Audio Radio Authorizations to American Mobile Radio Corporation and Satellite CD Radio Inc.*, DA 97-2164 (released October 7, 1997).

⁷ See *In the Matter of American Mobile Radio Corporation Application for Authority to Construct, Launch, and Operate Two Satellites in the Satellite Digital Audio Radio Service*, DA 97-2210 (released October 16, 1997); *In the Matter of Satellite CD Radio, Inc. Application for Authority to Construct, Launch, and Operate Two Satellites in the Satellite Digital Audio Radio Service*, DA 97-2210 (released October 10, 1997).