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Federal Communications Commission
Office of the Secretary

Bogotá D.C., 13 MAR 2008

Mr. Kevin J. Martin
Chairman
FEDERAL COMMUNICATIONS COMMISSION, FCC
445 12th Street SW
Washington, DC 20554
United States of America

Reference: *In the Matter of* STAR ONE S.A., Petition for Declaratory Ruling For
Inclusion of Star One C5 on the Permitted Space Station List,
File No. SAT-PPL-20071113-00159

**REQUEST FOR CLARIFICATION OR, IN THE ALTERNATIVE, FOR
RECONSIDERATION**

The Administration of Colombia, acting as the Notifying Administration before the ITU of the Andean Satellites Association -ASA- (ASA belongs to the Andean Community of Nations, which includes: Bolivia, Colombia, Ecuador, and Peru, collectively referred to herein as the "Andean Community"), and on behalf of the administrations of the Andean Community members, hereby requests that the International Bureau of FCC clarifies the conditions attached to the grant of Star One S.A.'s petition to add the Star One C5 satellite at the 68° W.L. orbital location to the Permitted Space Station List (the "Permitted List"¹). That grant already includes a condition requiring that the Star One C5 operate in compliance with coordination agreements reached between its licensing administration (Brazil) and other administrations.

The Andean Community requests that, consistent with past precedent, the Bureau clarifies that this condition includes the corollary that, if a satellite network with higher ITU priority goes into operation, and in the absence of a coordination

¹ See FCC File No. SAT-PPL-20071113-00159; Public Notice, Rep. No. SAT-00502, DA 08-394 (Feb. 15, 2008) (noting grant of petition).

REPUBLICA DE COLOMBIA

Ministerio de Comunicaciones
Despacho de la Ministra

agreement with it, if such satellite network would suffer harmful interference. Star One C5 must cease service to the U.S. market, and subsidiary, earth stations placed over U.S. territory communicating with Star One C5 also cease such links.

The Andean Community's interest in this proceeding arises from their ITU filing for the SIMON BOLIVAR 2 satellite network -SB2-, at the 67° W.L. orbital location. The Commission has long been aware of this network, and in fact allowed modification of one of its own licenses to facilitate coordination with it². This network was filed with the ITU prior to the Brazilian filing under which Star One C5 will operate. Moreover, in November 2007, the recent ITU World Radiocommunications Conference (WRC-C07), approved an extension of the ITU priority for the Andean filing through September 17, 2010. Although there is no satellite currently operating under the SB2 filing, the Andean Community is actively negotiating with industry players in this regard and has every expectation that the Andean filing will be brought into use and fully operational before September 2010.

To be clear, because there is no satellite currently operating at 68° W.L. and coordination with Brazil is ongoing, the Andean Community does not object to the Bureau's decision to place Star One C5 on the Permitted List for the time being. The Commission has made clear that, in such a situation, it would permit the lower priority network to access the U.S. market if the higher priority satellite has not been launched. In that case, the lower priority satellite would be authorized to access the U.S. market subject to proof of coordination with the higher priority satellite. Absent such a demonstration, the lower priority satellite would be required to cease service to the U.S. market immediately upon launch and operation of the higher priority satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU precedence.³ For this reason, the Andean Community did not comment on Star One's petition. However, given this policy and the Commission's awareness of the competing SB2 filing, the Andean Community anticipated that any grant of that petition would include conditions explicitly recognizing the rights of other satellite networks with ITU date priority and setting forth the effect on market access should such a network begin operations in the absence of a coordination agreement for Star One C5.

² See *Assignment of Orbital Locations to Space Stations in the Domestic Fixed Satellite Service*, 13 FCC Rcd. 13563, ¶ 5 and n.9 (Int'l Bur. 1998) (modifying GE Americom License to move from 67° W.L. to 81° W.L. to avoid conflict with Andean filing)

³ *Amendment of the Commission's Space Station Licensing Rules and Policies*, 18 FCC Rcd. 10760, ¶ 296 (2003) ("Space Station Reform Order").

REPUBLICA DE COLOMBIA

Ministerio de Comunicaciones
Despacho de la Ministra

The Bureau has taken this approach in the past when presented with a non-U.S. system with ITU priority at a nearby orbital location. For example, in placing what was then known as Loral's Telstar 13 satellite on the Permitted List, the Bureau imposed three conditions related to international coordination:

1. *Loral SpaceCom Corp.'s operation of Telstar 13 shall be in compliance with applicable current and future operational requirements as a result of coordination agreements reached with other satellite systems.*
2. *In the absence of a coordination agreement with a satellite network with higher ITU priority, Telstar 13 must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU date precedence.*
3. *In the absence of a coordination agreement with a satellite network with higher ITU priority, earth station licensees communicating with Telstar 13 must terminate immediately any operations that cause harmful interference.⁴*

The Bureau stated that these conditions struck an appropriate balance given that both Loral and the operator with higher ITU priority intended to provide service but the higher-priority satellite was not yet ready for launch⁵.

The authorization granted to Star One in this proceeding includes a condition similar to the first one listed above from the Loral SpaceCom order⁶. Arguably, the other two conditions listed above are nothing but the necessary consequences of the first condition, especially in light of the Commission's stated policy in the Space Station Reform Order. Nonetheless, given the proximity of the Brazilian and Andean networks: 68° and 67° W.L. respectively, and the demonstrated intent to bring both networks into use (including service to the U.S.A.), the Andean Community believes it would be best for all parties if the coordination aspects were spelled out more definitively in the grant.

Accordingly, the Andean Community requests that the Commission clarify the Star One grant by amending Condition 2 to read as follows:

⁴ *Loral SpaceCom Corp.*, 18 FCC Red. 16374, ¶ 31(b)-(d) (Int'l Bar, 2003).

⁵ *Id.* ¶ 17.

⁶ Specifically, Condition 2 of the Star One C5 grant states that "[c]ommunications between ALSAT-designated routine earth stations and the Star One C5 satellite shall be in compliance with the satellite coordination agreements reached between Brazil and other administrations."

REPUBLICA DE COLOMBIA

Ministerio de Comunicaciones
Despacho de la Ministra

2. (a) Communications between ALSAT-designated routine earth stations and the Star One C5 satellite shall be in compliance with the satellite coordination agreements reached between Brazil and other administrations.
- (b) In the absence of a coordination agreement with a satellite network with higher ITU priority, Star One C5 must cease service to the U.S. market immediately upon launch and operation of the higher ITU priority satellite, or be subject to further conditions designed to address potential harmful interference to a satellite with ITU date precedence.
- (c) In the absence of a coordination agreement with a satellite network with higher ITU priority, earth station licensees communicating with Star One C5 must terminate immediately any operations that cause harmful interference.

For the foregoing reasons, the Andean Community requests that the Bureau expeditiously issue an order clarifying the conditions applicable to Star One's entry on the Permitted List as set forth above. In the alternative, if the Bureau determines that the relief requested herein is more appropriately handled as a reconsideration of its prior grant, the Andean Community requests that reconsideration consistent with the arguments stated herein be granted.

For further information and follow up of this request, I ask you to address correspondence to:

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Sincerely,



MARÍA DEL ROSARIO GUERRA

Minister of Communications

Republic of Colombia

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of March 2008, a copy of the foregoing Request for Clarification or, In the Alternative, For Reconsideration was served by First Class U.S. Mail upon:

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* **Sent by Federal Express**