



Ministerio de Comunicaciones  
República de Colombia

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Federal Communications Commission  
Bureau / Office

Bogotá D.C.,

**The Honorable Kevin J. Martin**  
Chairman  
FEDERAL COMMUNICATIONS COMMISSION, FCC  
445 12th Street SW  
Washington D.C. 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

### REPLY

In this proceeding, the Andean Community<sup>1</sup> has made a simple request: that the grant of Star One S.A.'s petition to add the Star One C5 satellite to the Permitted Space Station List (the "Permitted List")<sup>2</sup> be conformed to the Commission's stated policies in order to avoid any potential confusion in the future. That grant already includes a condition requiring that Star One C5 operate in compliance with coordination agreements reached between its licensing administration (Brazil) and other administrations. But the Commission has previously made clear that, absent proof of coordination with another administration that enjoys superior ITU priority, "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."<sup>3</sup>

The Andean Community requests only that this additional fact be reflected in the entry for Star One C5 on the Permitted List so that all parties – including operators and users

<sup>1</sup> The Administration of Colombia, acting as the Notifying Administration before the ITU of the Andean Satellites Association (which belongs to the Andean Community of Nations, including Bolivia, Colombia, Ecuador, and Peru, collectively referred to herein as the "Andean Community"), and on behalf of the administrations of the Andean Community, filed a Request for Clarification or, in the Alternative, for Reconsideration (the "Request") in this proceeding.

<sup>2</sup> See FCC File No. SAT-PPL-20071113-00159; Public Notice, Rep. No. SAT-00502, DA 08-394 (Feb. 15, 2008) (noting grant of petition).

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



of U.S. earth stations – will have a clear understanding of the potential implications of international coordination. Not including this condition in Star One’s entry on the FCC’s Permitted List will not change the consequences of failing to coordinate, but it will make those consequences less transparent to the public at large.

In its Opposition,<sup>4</sup> Star One does not dispute the Andean Community’s recitation of Commission policy quoted from the *Space Station Reform Order*. Nor should Star One be surprised by that policy, as it is simply a reflection of the international satellite coordination process administered by the ITU. Indeed, it is hard to understand Star One’s assertion that simply recognizing well-established Commission and ITU policy in the Star One C5 grant would be “extremely prejudicial”<sup>5</sup> when the grant would be subject to that same policy even if that policy is not explicitly included among the conditions.

Unable to dispute the underlying policy, Star One makes two other arguments in opposition to the Request. First, it asserts that the Request is procedurally defective due to lack of participation in the original proceeding. But as explained in the Request, given both the Commission’s stated policy and its knowledge of the Andean Community’s coordination priority at the adjacent orbital location, there was every reason to believe that the Commission would include in the grant a more explicit discussion of coordination implications, as it had done in prior Permitted List grants.<sup>6</sup> Moreover, until the grant was released, the Andean Community had no reason to seek a clarification of what it expected to be a very clearly conditioned grant.

Second, Star One argues that the conditions proposed in the Request are premature because the Andean Community may not actually launch a satellite with higher priority in the future.<sup>7</sup> The Andean Community strongly disagrees with Star One’s characterization of the facts, and believes that the record shows that it has expended extraordinary efforts with respect to the 67° W.L. orbital location.

However, it need not engage in that debate for the simple reason that Star One’s argument is totally irrelevant. The Commission’s stated policy is that, although a satellite network with lower ITU priority may initially provide service into the U.S., it must “cease service to the U.S. market immediately upon launch and operation of the higher priority satellite.”<sup>8</sup> This principle, which echoes the ITU satellite coordination regime, already applies to the Star One C5 grant regardless of its speculation as to the

<sup>4</sup> Opposition to Request for Clarification or, in the Alternative, for Reconsideration (filed Mar. 26, 2008) (“Opposition”).

<sup>5</sup> Opposition at 3.

<sup>6</sup> See Request at 2-3 (citing *Loral SpaceCom Corp.*, 18 FCC Rcd. 16374, ¶ 31(b)-(d) (Int’l Bur. 2003) (“*Loral SpaceCom*”). Star One argues that the more complete set of conditions discussing coordination issues “has generally been imposed only when a party claiming superior ITU priority has actually filed timely comments.” Opposition at 2 n.5. Yet in none of the previous cases where such conditions were not included had the Commission already fully familiar with the higher priority system from prior dealings on several occasions – including a prior instance of conditioning an authorization in recognition of its superior ITU priority. See Request at 2.

<sup>7</sup> Opposition at 3-5.

<sup>8</sup> *Space Station Reform Order*, ¶ 296.





course of future events at adjacent orbital locations. If the Andean Community or another administration launches a satellite with superior ITU priority, the policy will be applied. It is not "premature" to recognize that fact in the grant simply because future satellite launches are always subject to some degree of uncertainty.

To the contrary, U.S. earth station operators and U.S. users would receive only belated notice if the Commission accepts Star One's apparent preference for hiding this fact until such time as a satellite with superior ITU priority is actually launched to an adjacent orbital location.

Clarifying the grant by including conditions more fully spelling out the potential consequences of international coordination does not materially change Star One's grant. However, omission of such conditions would leave the grant materially less informative to the U.S. earth station operators and U.S. users whose knowledge of Star One's rights are likely to depend upon the public description of the Star One C5 grant in the Permitted List.<sup>9</sup> Thus, while omission might serve Star One's commercial interest in obscuring its coordination status, inclusion of the requested clarification would serve the public interest which is the rightful concern of the Commission.

Accordingly, 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 in the Request.

Sincerely,

**Joaquín Restrepo**  
International Affairs Advisor  
Ministry of Communications  
Republic of Colombia

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<sup>9</sup> See, e.g., *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*, Order on Reconsideration, 15 FCC Rcd. 7207, ¶ 18 (1999) ("To ensure that parties are aware of, and are observing these conditions, we will also list them as a condition of access for that particular satellite on the Permitted Space Station list.").



**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of April, 2008, a copy of the foregoing Reply was served by first class U.S. mail upon:

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