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A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

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June 24, 1996

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OUR FILE NUMBER

26218-00001

JUN 25 1996

FCC/MELLON

LOS ANGELES
333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071-3197

CENTURY CITY
2029 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-3026

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ONE MONTGOMERY STREET, TELESIS TOWER
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DALLAS
1717 MAIN STREET
DALLAS, TEXAS 75201-7390

DENVER
1801 CALIFORNIA STREET
DENVER, COLORADO 80202-2641

WRITER'S DIRECT DIAL NUMBER

(202) 887-3514

BY FEDERAL EXPRESS

Federal Communications Commission
International Bureau - Satellites
P.O. Box 358210
Pittsburgh, PA 15251-5210

Re: *Applications for Special Temporary Authority*

Dear Sirs:

Enclosed you will find: (1) EchoStar Satellite Corporation's Request for Extension of Special Temporary Authority; (2) Directsat Corporation's Request for Special Temporary Authority; (3) an FCC Remittance Advice, FCC Form 159; and (4) a check in the amount of \$230.00, to cover the filing fees associated with these materials.

In addition to the original filings, I have enclosed a "stamp and receipt" copy of each filing along with a self-addressed stamped envelope. Please mark the extra copies as received and send them back to me.

Sincerely,



William M. Wiltshire

WMW/wmw

LETTER.01/0+

FEDERAL COMMUNICATIONS COMMISSION
FCC REMITTANCE ADVICE

Approved by OMB
3060-0589
Expires 2/28/97

PAGE NO. 1 OF _____

(RESERVED)

SPECIAL USE
FCC/MELLON JUN 25 1996

FCC USE ONLY
FCC/MELLON JUN 28 1996

(Read instructions carefully BEFORE proceeding.)

PAYOR INFORMATION

(1) FCC ACCOUNT NUMBER: 0 9 5 1 6 1 1 2 3 4 Did you have a number prior to this? Enter it. (2) TOTAL AMOUNT PAID (dollars and cents)
\$ **Received** 230.00

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)
Gibson, Dunn & Crutcher LLP **AUG 07 1996**

(4) STREET ADDRESS LINE NO. 1
1050 Connecticut Ave., NW **Satellite Policy Branch**
(5) STREET ADDRESS LINE NO. 2 **International Bureau**

(6) CITY: Washington (7) STATE: DC (8) ZIP CODE: 20036
(9) DAYTIME TELEPHONE NUMBER (Include area code): 202-887-3514 (10) COUNTRY CODE (if not U.S.A.):

ITEM #1 INFORMATION

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR: EchoStar Satellite Corporation *139-SAT-STA-96* FCC USE ONLY

(12A) FCC CALL SIGN/OTHER ID: (13A) ZIP CODE: 80112 (14A) PAYMENT TYPE CODE: M G D (15A) QUANTITY: (16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14: \$ 115.00

(17A) FCC CODE 1: (18A) FCC CODE 2:

(19A) ADDRESS LINE NO. 1: 90 Inverness Cir. East (20A) ADDRESS LINE NO. 2: (21A) CITY/STATE OR COUNTRY CODE: Englewood, CO

ITEM #2 INFORMATION

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR: Directsat Corporation *138-SAT-STA-96* FCC USE ONLY

(12B) FCC CALL SIGN/OTHER ID: (13B) ZIP CODE: 80112 (14B) PAYMENT TYPE CODE: M G D (15B) QUANTITY: (16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14: \$ 115.00

(17B) FCC CODE 1: (18B) FCC CODE 2:

(19B) ADDRESS LINE NO. 1: 90 Inverness Cir. East (20B) ADDRESS LINE NO. 2: (21B) CITY/STATE OR COUNTRY CODE: Englewood, CO

CREDIT CARD PAYMENT INFORMATION

(22) MASTERCARD/VISA ACCOUNT NUMBER:
 Mastercard Visa

(23) I hereby authorize the FCC to charge my VISA or Mastercard for the service(s)/authorization(s) herein describe. AUTHORIZED SIGNATURE: _____ DATE: _____

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

In the Matter of)	
)	
ECHOSTAR SATELLITE CORPORATION)	File No.
)	
Application for Extension of Special Temporary Authority to Operate a Direct Broadcast Satellite)	
)	

**EchoStar Satellite Corporation's Request for
Extension of Special Temporary Authority**

Pursuant to Section 309(f) of the Communications Act of 1934, as amended,¹ and Section 25.119 of the Commission's Rules,² EchoStar Satellite Corporation ("EchoStar") hereby requests an extension of the special temporary authority ("STA") previously granted by Order dated March 1, 1996 ("STA Order")³ authorizing EchoStar to continue operating the eastern satellite of its Direct Broadcast Satellite ("DBS") system on channels 1-31 (odd-numbered) at 119° W.L. for an additional 180 days after the expiration of its current STA.⁴ As discussed below, granting this

¹ 47 U.S.C. § 309(f).

² 47 C.F.R. § 25.119.

³ See EchoStar Satellite Corp., DA 96-270 (Sat. and Rad. Div, Int'l Bu

⁴ EchoStar has applied for a license to cover the eleven channels at 119° W.L. The Commission issues that license before granting the requested extension to cover five additional channels 23, 25, 27, 29, and 31.

ORIGINALS

request will serve the public interest by promoting both the efficient use of spectrum and greater competition in the multichannel video programming distribution markets while avoiding any interference with other satellite systems and safeguarding against any potential confusion among consumers.

A. Granting the Requested STA Extension Will Serve the Public Interest.

EchoStar has been assigned eleven odd-numbered channels 1-21 with which to operate from its eastern DBS orbital location.⁵ Directsat Corporation, an affiliate of EchoStar, has been assigned ten even-numbered channels 2-20 with which to operate from the same 119° orbital location.⁶ The remaining eleven channels at that orbital location have been conditionally assigned to Tempo Satellite, Inc. ("Tempo"). The STA granted to EchoStar authorizes it to use five of the channels assigned to Tempo, subject to the condition that EchoStar will immediately cease operations on those channels upon Tempo's launch of a satellite to the 119° location. Tempo did not object to granting the original STA so long as it contained this condition.⁷ The first of

⁵ See EchoStar Satellite Corp., 7 F.C.C.R. 1765 (1992). EchoStar applied for authorization to operate on 16 eastern and 16 western channels. The Commission authorized EchoStar to operate on 11 channels at two orbital locations, but further provided that EchoStar retained the right to "receive reservations for additional channels, up to the total number of half-CONUS channels necessary to fulfill the proposal in its application, if DBS allocations are surrendered by other permittees or canceled by the Commission." Continental Satellite Corp., 4 F.C.C.R. 6292, 6300 (1989). Although the Commission subsequently canceled a DBS permit, EchoStar did not receive any further channel assignments, a decision which EchoStar has appealed. See DIRECTV, Inc., et al., Docket Nos. 96-1001, 96-1005, 96-1010, and 96-1011 (D.C. Cir.).

⁶ See Directsat Corp., 8 F.C.C.R. 7962 (Vid. Svc. Div., MMB 1993). In a separate Request filed herewith, Directsat has also sought an STA to use channels assigned to Tempo but not currently in use.

⁷ See STA Order at ¶ 5 ("Tempo has stated that such a condition will ensure that any of its future operations at 119° will be appropriately protected").

Tempo's satellites is set for launch in November 1996 at the earliest,⁸ which ensures that without an extension of the STA these channels would remain unused for several months at a minimum.

The resulting STA effectively enables use of spectrum that would otherwise lie fallow, unless and until Tempo is able to make use of it. The authorization therefore strikes an appropriate balance between the public interest in making intense and productive use of spectrum and Tempo's private interest in having its channel assignments available if and when it launches a satellite to the 119° location. Under the circumstances, and as conditioned by the Commission, "denying or deferring action on [the STA] application will only serve to waste in-orbit capacity and deprive the public of service."⁹

As the Commission previously recognized in the STA Order, the requested STA will also serve the public interest by allowing EchoStar to use additional satellite capacity to offer a substantially expanded range of programming options for American consumers than would otherwise be possible.¹⁰ Using additional channels, EchoStar would be able to offer a total of approximately 95 programming channels from 16 transponders as opposed to approximately 65 programming channels if only 11 transponders were used. In fact, this expanded capacity will enable transmission of educational and culturally diverse programming that could not otherwise be

⁸ See Declaration of David P. Beddow at ¶ 7, attached as Exhibit 1 to the Consolidated Opposition to Petitions to Deny and Request for Expedited Action of Western Tele-Communications, Inc. (File No. 844-DSE-P/L-96, dated May 20, 1996).

⁹ Mobile Datacom Corp., 10 F.C.C.R. 4552, 4553 (1995)(granting Mobile Datacom's application for authority to construct and operate on a temporary basis 10,000 mobile earth stations to provide radio location and messaging services to mobile customers).

¹⁰ STA Order at ¶ 2.

accommodated by EchoStar's channel assignments alone. For example, EchoStar currently uses this extra satellite capacity to transmit Greek and Croatian programming continuously together with basic education, human resource coursework, and self improvement and retraining programs. The company is also in the process of negotiating arrangements that would result in five channels of Hispanic programming, and single channels devoted to distance learning, computer training courses, and health-related programming. None of this programming is currently available to customers from any other DBS source.

In addition, EchoStar hopes to use the additional capacity provided by the STA to test new and innovative technologies, such as High Definition Television, or to augment the capabilities of existing technologies, as by, for example, linking to the Internet or transmitting large amounts of data needed to make DBS service even more productive for distance learning. Without an extension of the STA, capacity constraints would ensure that EchoStar could provide neither this type of innovation nor the educational and cultural programming discussed above. Thus, by "[a]llowing the temporary use of existing orbital resources," the Commission will assist the public in "receiv[ing] services that would not otherwise be available."¹¹

Granting this request will also enable EchoStar to offer a more comprehensive and competitive DBS service to the public by making use of all sixteen transponders available on its satellite. This will further one of the Commission's goals by bringing much-needed competition both within the DBS service and throughout the multichannel video programming distribution

¹¹ Newcomb Communications, Inc., 8 F.C.C.R. 3631, 3632 (1993).

("MVPD") market, which is currently dominated by cable television.¹² In tandem with Directsat's sixteen-transponder satellite, EchoStar will be able to offer American consumers a wide variety of programming utilizing all thirty-two channels allocated to the United States for DBS service from the 119° orbital location, thereby making the fullest possible use of the nation's valuable spectrum resources. Such a robust system -- with transponder capacity equal to that of the incumbent DBS provider, DIRECTV/USSB -- will offer the kind of healthy competition that the Commission recently sought to foster in the DBS service as a way to benefit all consumers of MVPD services.¹³

B. The STA Will Not Result in Harmful Interference or Consumer Confusion.

EchoStar's current STA includes two conditions designed to ensure that EchoStar's use of additional DBS channels at 119° does not interfere with other lawfully operating systems. The first calls for EchoStar to cease operations from the STA channels immediately upon launch of a satellite by Tempo to the 119° orbital location. The second requires EchoStar to cease operations from the STA channels immediately upon notification that such operations are causing harmful interference to any other lawfully operated radio station.¹⁴ EchoStar does not object to the extension of these conditions along with extension of the STA. EchoStar recognizes and respects

¹² See, e.g., Revision of Rules and Policies for the Direct Broadcast Satellite Service, 1Com. Reg. (P&F) 928 at ¶ 23 ("we have consistently sought to promote effective competition to the services provided by cable systems, and we have encouraged the development of the DBS spectrum in precisely that context").

¹³ Id. at ¶ 64 (goal of one-time auction rule limiting full-CONUS spectrum aggregation is to foster competitive rivalry between DBS operators and other MVPD providers through entry by independent operator with robust 28-channel system).

¹⁴ STA Order at ¶ 10.

Tempo's conditional assignment of channels at this location. And, as discussed in EchoStar's initial STA request, EchoStar has submitted technical information demonstrating that the operations of its 16-transponder satellite at 119° will not cause harmful interference with any authorized user of the spectrum.¹⁵ Where, as here, "temporary operations do not adversely affect other licensed satellites, the Commission readily authorizes their use."¹⁶ The Commission should do so in this case by extending the STA for an additional 180 days.

The STA Order noted that in order to avoid confusion and disruption among consumers in the event that temporary authorization to use these additional channels expires and EchoStar's service from them terminates, the Commission would normally require written notice to any subscribers who receive programming made possible by use of those additional channels that such programming is being provided on a temporary basis only.¹⁷ If the requested STA extension is granted, EchoStar proposes to implement a three-step program to comply with this requirement. First, EchoStar will prepare an explanation of the temporary nature of the STA to be read by its customer service representatives to any customer who contacts EchoStar to subscribe to a service involving programming made possible by the additional channel capacity provided by the STA. Second, the paperwork sent to such a subscriber to confirm his service order will contain a similar

¹⁵ See, e.g., EchoStar's Minor Amendment to Request for Special Temporary Authority at 2-3.

¹⁶ Mobile Datacom, 10 F.C.C.R. at 4553.

¹⁷ STA Order at ¶ 6. The STA Order did not apply such a requirement to EchoStar since any loss of capacity due to expiration or termination of the STA could be offset by the additional capacity available upon launch of Directsat's satellite.

explanation of the nature and limitations of an STA. Third, the initial bill sent to such a subscriber will include similar explanatory material.

EchoStar proposes to use the following language for purposes of providing the notices to subscribers discussed above:

Dear Subscriber:

You have subscribed to programming on channels __, __, and __. As indicated when you originally ordered this programming, the DISH Network has been granted temporary authority by the Federal Communications Commission to use those channels. Should the DISH Network be required to cease transmitting programming over those channels, we will provide you notice as far in advance as reasonably practicable, and if we are unable to make alternative arrangements for transmission of this programming we will adjust your subscription charge as appropriate to reflect any change in your service level that may result. We are committed to ensuring your satisfaction with our service and will make every effort to provide you with the programming you desire. If you have any questions, please call us toll-free at 1-800-333-DISH.

Should the Commission desire to modify this informational statement, EchoStar would be amenable to any reasonable alternative. We believe that the notification arrangements outlined herein should ensure a smooth transition with minimal confusion, if any, among consumers if the requested STA is ever terminated or expires without extension.

C. Section 304 Waiver

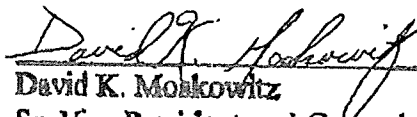
In accordance with Section 304 of the Communications Act of 1934, 47 U.S.C. § 304, EchoStar hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

D. Conclusion

For the foregoing reasons, EchoStar respectfully submits that the Commission should grant the instant application for an extension of special temporary authority because the use of the requested channels will serve the public interest and will not result in either harmful interference or consumer confusion.

Respectfully submitted,

EchoStar Satellite Corporation

By: 
David K. Moskowitz
Sr. Vice President and General Counsel

90 Inverness Circle East
Englewood, CO 80112
(303) 799-8222

Mark A. Grannis
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500

Counsel for EchoStar Satellite Corporation

Dated: June 24, 1996

ANTI-DRUG ABUSE CERTIFICATION

Pursuant to Section 1.2002 of the Commission's Rules, 47 C.F.R. § 1.2002, EchoStar Satellite Corporation certifies that neither the Applicant nor any of its officers or directors, nor any person holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the Applicant, nor any party to this Application is subject to a denial of Federal benefits pursuant to authority granted in Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

EchoStar Satellite Corporation

By: David K. Moskowitz
David K. Moskowitz
Sr. Vice President and General Counsel

90 Inverness Circle East
Englewood, CO 80112
(303) 799-8222

WL961560.070/11

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

)	
In the Matter of)	
DIRECTSAT CORPORATION)	File No.
)	
Application for Special Temporary Authority)	
to Operate a Direct Broadcast Satellite)	
)	

Directsat Corporation's Request for Special Temporary Authority

Pursuant to Section 309(f) of the Communications Act of 1934, as amended,¹ and Section 25.119 of the Commission's Rules,² Directsat Corporation ("Directsat") hereby requests special temporary authority ("STA") to operate the eastern satellite of its Direct Broadcast Satellite ("DBS") system on channels 2-32 (even-numbered) at 119° W.L. As discussed below, granting this request will serve the public interest by promoting both the efficient use of spectrum and greater competition in the multichannel video programming distribution markets while avoiding any interference with other satellite systems and safeguarding against any potential confusion among consumers.

¹ 47 U.S.C. § 309(f).

² 47 C.F.R. § 25.119.

A. Granting the Requested STA Will Serve the Public Interest.

Directsat has been assigned ten even-numbered channels 2-20 with which to operate from its the 119° DBS orbital location.³ EchoStar Satellite Corporation, an affiliate of Directsat, has been assigned eleven odd-numbered channels 1-21 with which to operate from the same 119° orbital location.⁴ The remaining eleven channels at that orbital location have been conditionally assigned to Tempo Satellite, Inc. ("Tempo"). By Order dated March 1, 1996, the Commission granted EchoStar an STA authorizing it to use five of the channels assigned to Tempo, subject to the condition that EchoStar will immediately cease operations on those channels upon Tempo's launch of a satellite to the 119° location.⁵ Tempo did not object to granting the STA to EchoStar so long as it contained this condition.⁶ The first of Tempo's satellites is set for launch in

³ See Directsat Corp., 8 F.C.C.R. 7962 (Vid. Svc. Div., MMB 1993). Directsat applied for authorization to operate on 16 eastern and 16 western channels. The Commission authorized Directsat to operate on 10 channels at 119°, one channel at 110°, and 11 channels at 175°, but further provided that Directsat retained the right to "receive reservations for additional channels, up to the total number of half-CONUS channels necessary to fulfill the proposal in its application, if DBS allocations are surrendered by other permittees or canceled by the Commission." Continental Satellite Corp., 4 F.C.C.R. 6292, 6300 (1989). Although the Commission subsequently canceled a DBS permit, Directsat did not receive any further channel assignments, a decision which Directsat has appealed. See DIRECTV, Inc., et al., Docket Nos. 96-1001, 96-1005, 96-1010, and 96-1011 (D.C. Cir.).

⁴ See EchoStar Satellite Corp., 7 F.C.C.R. 1765 (1992). In a separate Request filed herewith, EchoStar has also sought an extension of its STA to continue using channels assigned to Tempo.

⁵ EchoStar Satellite Corp., DA 96-270 (Sat. and Rad. Comm. Div., Int'l Bur. 1996)("STA Order").

⁶ See STA Order at ¶ 5 ("Tempo has stated that such a condition will ensure that any of its future operations at 119° will be appropriately protected").

November 1996 at the earliest,⁷ which ensures that without the requested STA these channels would remain unused for some time.

The STA granted to EchoStar effectively enables use of spectrum that would otherwise lie fallow, unless and until Tempo is able to make use of it. Such an authorization therefore strikes an appropriate balance between the public interest in making intense and productive use of spectrum and Tempo's private interest in having its channel assignments available if and when it launches a satellite to the 119° location. Directsat now seeks an STA similar to that granted to its sister company three months ago. Under the circumstances, and with the conditions previously imposed in the STA Order, "denying or deferring action on [the STA] application will only serve to waste in-orbit capacity and deprive the public of service."⁸

As the Commission previously recognized in the STA Order with respect to EchoStar, the STA requested by Directsat will also serve the public interest by allowing Directsat to use additional satellite capacity to offer a substantially expanded range of programming options for American consumers than would otherwise be possible.⁹ Using additional channels, Directsat would be able to offer a total of approximately 95 programming channels from 16 transponders as opposed to approximately 59 programming channels if only 10 transponders were used. In fact,

⁷ See Declaration of David P. Beddow at ¶ 7, attached as Exhibit 1 to the Consolidated Opposition to Petitions to Deny and Request for Expedited Action of Western Tele-Communications, Inc. (File No. 844-DSE-P/L-96, dated May 20, 1996).

⁸ Mobile Datacom Corp., 10 F.C.C.R. 4552, 4553 (1995)(granting Mobile Datacom's application for authority to construct and operate on a temporary basis 10,000 mobile earth stations to provide radio location and messaging services to mobile customers).

⁹ STA Order at ¶ 2.

this expanded capacity will enable transmission of educational and culturally diverse programming that could not otherwise be accommodated by Directsat's channel assignments alone. It will also enable Directsat to test new and innovative technologies, such as High Definition Television, and to experiment with data transmission and other services that can expand the choices available to the public. Without the requested STA, capacity constraints would ensure that Directsat could provide neither this type of innovation nor the amount of educational and cultural programming it would like to offer to the public. Thus, by "[a]llowing the temporary use of existing orbital resources," the Commission will assist the public in "receiv[ing] services that would not otherwise be available."¹⁰

Granting this request will also enable Directsat to offer a more comprehensive and competitive DBS service to the public by making use of all sixteen transponders available on its satellite. This will further one of the Commission's goals by bringing much-needed competition both within the DBS service and throughout the multichannel video programming distribution ("MVPD") market, which is currently dominated by cable television.¹¹ In tandem with EchoStar's sixteen-transponder satellite, Directsat will be able to offer American consumers a wide variety of programming utilizing all thirty-two channels allocated to the United States for DBS service from the 119° orbital location, thereby making the fullest possible use of the nation's valuable spectrum resources. Such a robust system -- with transponder capacity equal to that of the incumbent DBS

¹⁰ Newcomb Communications, Inc., 8 F.C.C.R. 3631, 3632 (1993).

¹¹ See, e.g., Revision of Rules and Policies for the Direct Broadcast Satellite Service, 1 Com. Reg. (P&F) 928 at ¶ 23 ("we have consistently sought to promote effective competition to the services provided by cable systems, and we have encouraged the development of the DBS spectrum in precisely that context").

provider, DIRECTV/USSB -- will offer the kind of healthy competition that the Commission recently sought to foster in the DBS service as a way to benefit all consumers of MVPD services.¹²

B. Grant of the Requested STA Is Consistent With Commission Precedent and Policy

In its STA Order, the Commission established the precedent for allowing one DBS permittee to make temporary use of channels assigned to a second DBS permittee unless and until that second permittee is in a position to use those channels. That order was, in turn, consistent with other decisions in which the Commission had granted such temporary authorizations in order to make efficient and timely use of valuable spectrum resources.¹³

Direcstsat requests that its STA be issued in tandem with the extension sought by EchoStar of its own STA. This will enable both the Commission and the combined EchoStar/Direcstsat DBS service to deal with these two STAs on a coordinated basis in the future. Direcstsat recognizes that some of the period covered by the requested STA may fall before the scheduled launch of its satellite on September 10, 1996. However, grant of an STA at this time is justified because of the immediate impact it will have on the company's ability to utilize the spectrum

¹² Id. at ¶ 64 (goal of one-time auction rule limiting full-CONUS spectrum aggregation is to foster competitive rivalry between DBS operators and other MVPD providers through entry by independent operator with robust 28-channel system).

¹³ See, e.g., Newcomb Communications, supra; ARC Professional Svcs. Group, 5 F.C.C.R. 5398 (Com. Car. Bur. 1990)(applicant granted temporary authority to operate tracking and data relay satellite system on a commercial basis until that orbital location was ready to be occupied by a regularly assigned licensee); Satellite Business Systems, Mimeo No. 5207 (Com. Car. Bur. 1984)(licensee granted temporary authority to operate its SBS-4 satellite at 101° W.L. to enable a customer to provide interim satellite service until regularly assigned FSS licensee was prepared to occupy that orbital location).

efficiently. Any delay in the grant of temporary authority to Directsat would seriously prejudice the public interest by compromising Directsat's ability to serve its customers and crippling its ability to compete effectively for business. For example, until it has authorization to use the additional capacity, Directsat has no way of knowing whether to acquire rights to programming for those additional channels and take other steps necessary to implement a service operating with sixteen transponders instead of ten.¹⁴ Accordingly, grant of the requested STA would be consistent with Commission's recent action in Columbia Communications Corp.¹⁵ where the Commission granted an STA to a satellite operator already licensed to operate for two more years based on the impact that doubt about operations after that period would have had on the company's ability to make business arrangements necessary to the provision of its service.

C. The STA Will Not Result in Harmful Interference or Consumer Confusion.

The STA granted to EchoStar includes two conditions designed to ensure that the use of additional DBS channels at 119° does not interfere with other lawfully operating systems. The first calls for EchoStar to cease operations from the STA channels immediately upon launch of a satellite by Tempo to the 119° orbital location. The second requires EchoStar to cease operations from the STA channels immediately upon notification that such operations are causing harmful interference to any other lawfully operated radio station.¹⁶ Directsat anticipates that these same

¹⁴ Thus, Directsat's request is not based upon the "convenience to the applicant, such as marketing considerations of meeting scheduled customer in-service dates," which is an insufficient basis for granting an STA. 47 C.F.C. § 25.119(b). Rather, the basis for the request goes directly to Directsat's ability to make use of these valuable spectrum resources to the fullest extent at the earliest time possible.

¹⁵ Columbia Communications Corp., DA 96-703 (Int'l Bureau, May 6, 1996).

¹⁶ STA Order at ¶ 10.

conditions would be included in any STA it received, and does not object to them. Directsat recognizes and respects Tempo's conditional assignment of channels at this location. And, as discussed in EchoStar's initial STA request, EchoStar and Directsat have submitted technical information demonstrating that the operations of their 16-transponder satellites at 119° will not cause harmful interference with any authorized user of the spectrum.¹⁷ Where, as here, "temporary operations do not adversely affect other licensed satellites, the Commission readily authorizes their use."¹⁸ The Commission should do so in this case by granting Directsat's request for an STA.

The STA Order noted that in order to avoid confusion and disruption among consumers in the event that temporary authorization to use these additional channels expires and a licensee's service from them terminates, the Commission would normally require written notice to any subscribers who receive programming made possible by use of those additional channels that such programming is being provided on a temporary basis only.¹⁹ If the requested STA is granted, Directsat proposes to implement a three-step program to comply with this requirement. First, Directsat will prepare an explanation of the temporary nature of the STA to be read by its customer service representatives to any customer who contacts Directsat to subscribe to a service involving programming provided over channels subject to the STA. Second, the paperwork sent

¹⁷ See, e.g., EchoStar's Minor Amendment to Request for Special Temporary Authority at 2-3.

¹⁸ Mobile Datacom, 10 F.C.C.R. at 4553.

¹⁹ STA Order at ¶ 6. The STA Order did not apply such a requirement to EchoStar since any loss of capacity due to expiration or termination of the STA could be offset by the additional capacity available upon launch of Directsat's satellite.

to such a subscriber to confirm his service order will contain a similar explanation of the nature and limitations of an STA. Third, the initial bill sent to such a subscriber will include similar explanatory material.

Directsat proposes to use the following language for purposes of providing the notices discussed above:

Dear Subscriber:

You have subscribed to programming on channels __, __, and __. As indicated when you originally ordered this programming, the DISH Network has been granted temporary authority by the Federal Communications Commission to use those channels. Should the DISH Network be required to cease transmitting programming over those channels, we will provide you notice as far in advance as reasonably practicable, and if we are unable to make alternative arrangements for transmission of this programming we will adjust your subscription charge as appropriate to reflect any change in your service level that may result. We are committed to ensuring your satisfaction with our service and will make every effort to provide you with the programming you desire. If you have any questions, please call us toll-free at 1-800-333-DISH.

Should the Commission desire to modify this informational statement, Directsat would be amenable to any reasonable alternative. We believe that the notification arrangements outlined herein should ensure a smooth transition with minimal confusion, if any, among consumers if the requested STA is ever terminated or expires without extension.

C. Section 304 Waiver

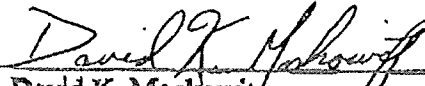
In accordance with Section 304 of the Communications Act of 1934, 47 U.S.C. § 304, Directsat hereby waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

D. Conclusion

For the foregoing reasons, Directsat respectfully submits that the Commission should grant the instant application for special temporary authority because the use of the requested channels will serve the public interest and will not result in either harmful interference or consumer confusion.

Respectfully submitted,

Directsat Corporation

By: 
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Counsel for Directsat Corporation

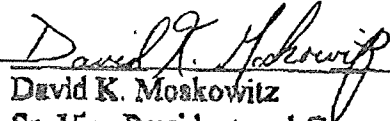
Dated: June 24, 1996

ANTI-DRUG ABUSE CERTIFICATION

Pursuant to Section 1.2002 of the Commission's Rules, 47 C.F.R. § 1.2002, Directsat Corporation certifies that neither the Applicant nor any of its shareholders, nor any of its officers or directors, nor any party to this Application is subject to a denial of Federal benefits pursuant to authority granted in Section 5301 of the Anti-Drug Abuse Act of 1988.

Directsat Corporation

By:



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