

FCC/MELLON JUL 19 1996

FEDERAL COMMUNICATIONS COMMISSION

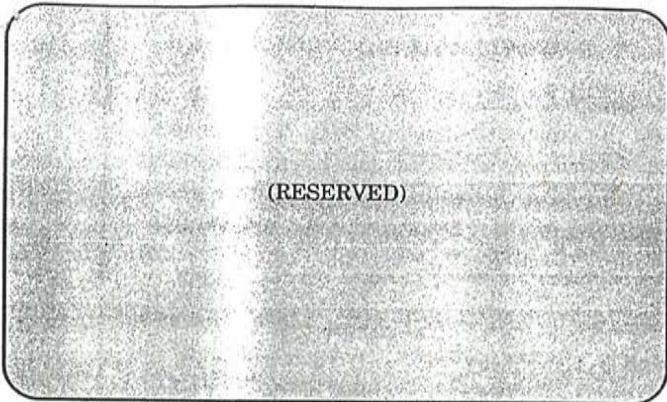
Approved by OMB

# FCC REMITTANCE ADVICE

3060-0589

Expires 2/28/97

PAGE NO. 1 OF       



(RESERVED)

(Read instructions carefully BEFORE proceeding.)

SPECIAL USE	Received
-------------	----------

FCC USE ONLY	JUL 26 1996 Satellite Policy Branch International Bureau
--------------	--

### PAYOR INFORMATION

(1) FCC ACCOUNT NUMBER	Did you have a number prior to this? Enter it.	(2) TOTAL AMOUNT PAID (dollars and cents)
0   1   3   5   3   3   5   1   0   7		\$ 1,725 • 00

(3) PAYOR NAME (If paying by credit card, enter name exactly as it appears on your card)  
**Kelley Drye & Warren**

(4) STREET ADDRESS LINE NO. 1  
**1200 19th Street, N.W., Suite 500**

(5) STREET ADDRESS LINE NO. 2

(6) CITY <b>Washington</b>	(7) STATE <b>D.C.</b>	(8) ZIP CODE <b>20036</b>
-------------------------------	--------------------------	------------------------------

(9) DAYTIME TELEPHONE NUMBER (Include area code) <b>(202) 955-9772</b>	(10) COUNTRY CODE (if not U.S.A.)
---	-----------------------------------

### ITEM #1 INFORMATION

(11A) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR <b>Final Analysis Communications Service, Inc.</b>	FCC USE ONLY
---	--------------

(12A) FCC CALL SIGN/OTHER ID	(13A) ZIP CODE <b>20770</b>	(14A) PAYMENT TYPE CODE C   X   W	(15A) QUANTITY <b>1</b>	(16A) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14 <b>\$1,725.00</b>
------------------------------	--------------------------------	--------------------------------------	----------------------------	--

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

(19A) ADDRESS LINE NO. 1 <b>7500 Greenway Ctr. Dr.</b>	(20A) ADDRESS LINE NO. 2 <b>Suite 1240</b>	(21A) CITY/STATE OR COUNTRY CODE <b>Greenbelt, MD</b>
---	---	--

### ITEM #2 INFORMATION

(11B) NAME OF APPLICANT, LICENSEE, REGULATEE, OR DEBTOR	FCC USE ONLY
---	--------------

(12B) FCC CALL SIGN/OTHER ID	(13B) ZIP CODE	(14B) PAYMENT TYPE CODE	(15B) QUANTITY	(16B) FEE DUE FOR PAYMENT TYPE CODE IN BLOCK 14 <b>\$</b>
------------------------------	----------------	-------------------------	----------------	--

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

(19B) ADDRESS LINE NO. 1	(20B) ADDRESS LINE NO. 2	(21B) CITY/STATE OR COUNTRY CODE
--------------------------	--------------------------	----------------------------------

### CREDIT CARD PAYMENT INFORMATION

(22) MASTERCARD/VISA ACCOUNT NUMBER:

Mastercard  Visa

EXPIRATION DATE:   /

Month                      Year

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

AUTHORIZED SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

KELLEY DRYE & WARREN LLP

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D. C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

NEW YORK, N.Y.

LOS ANGELES, CA.

MIAMI, FL.

CHICAGO, IL.

STAMFORD, CT.

PARSIPPANY, N.J.

BRUSSELS, BELGIUM

HONG KONG

AFFILIATED OFFICES

NEW DELHI, INDIA

TOKYO, JAPAN

July 19, 1996

AILEEN A. PISCIOTTA

DIRECT LINE (202) 955-9771

Federal Communications Commission  
c/o Mellon Bank  
Three Mellon Bank Center  
525 William Penn Way  
27th Floor, Room 153-2713  
Pittsburgh, PA 15259-0001  
(Attention: Wholesale Lockbox Shift Supervisor)

Received

JUL 26 1996

Satellite Policy Branch  
International Bureau

Re: Final Analysis Communication Services, Inc.  
Request for Section 319(d) Waiver

Dear Sirs:

Enclosed herewith on behalf of Final Analysis Communication Services, Inc., are the original and five copies plus a duplicate copy of a Request for Waiver Pursuant to Section 319(d) of the Communications Act, to commence construction of the first two satellites in its planned commercial Non-Voice, Non-Geostationary Mobile Satellite Service system.

Also enclosed is a completed FCC Form 159 and a check in the amount of \$1,725.00 for the filing fee.

Please address any questions concerning this application to the undersigned.

Respectfully submitted,



Aileen A. Pisciotta

Counsel to Final Analysis Communication  
Services, Inc.

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

Received

JUL 26 1996

Satellite Policy Branch  
International Bureau

---

In the Matter of the Application of )  
Final Analysis Communication Services, Inc. )  
Application for Authority to Construct, )  
Launch and Operate a Non-Voice, Non- )  
Geostationary Low-Earth Orbit Mobile )  
Satellite System )

---

File Nos. 75-SAT-AMEND-96  
25-SAT-P/LA-95

To: The Commission

**REQUEST FOR WAIVER PURSUANT TO SECTION 319(d)  
OF THE COMMUNICATIONS ACT**

Final Analysis Communication Services, Inc. ("FACS"), by its attorneys, hereby requests a waiver pursuant to Section 319(d) of the Communications Act, as amended, 47 U.S.C. § 319(d), to commence construction of the first two satellites in its planned commercial Non-Voice, Non-Geostationary Mobile Satellite Service ("Little LEO") system. FACS recognizes that any construction undertaken pursuant to this waiver will be at its own risk. It is also understood that grant of this waiver will not affect Commission action on FACS's pending application for a commercial Little LEO system.

1. **Background**

FACS, together with its corporate parent, Final Analysis, Inc., ("FAI") (collectively referred to as "Final Analysis"), is a United States company that is a proven leader in the design, development and implementation of aerospace technologies, including construction of satellites. Final Analysis employs a full time staff of 50 scientists and engineers as well as other technical personnel, including noted pioneers in small satellite design, launch vehicle design and experts on use of commercial components, alternative power strategies and new analysis techniques in spacecraft design. The company has grown from revenue of approximately \$1.0 million in 1993 to \$11.8 million in 1995. The headquarters for Final Analysis's commercial space activities is in Greenbelt, Maryland. Manufacturing and pre-flight satellite integration and testing is performed in Logan, Utah at a facility located within the Space Dynamics Laboratory of Utah State University.

FACS is a Second Round applicant for a Little LEO constellation of 26 satellites with full deployment planned over the period 1997 to 2001. The Final Analysis commercial Little LEO system is designed to be spectrally-efficient and will provide competitive and diverse data, tracking, monitoring, paging and other non-voice services to consumers in the United States and around the world. Major suppliers such as Lockheed Martin and Allied Signal have entered into agreements for the production of components of the Final Analysis Little LEO satellite system. Final Analysis has recently secured an agreement with Polyot Design Bureau ("Polyot"), a Russian aerospace company, for launch of its entire constellation.<sup>1</sup>

---

<sup>1</sup> Polyot has an outstanding launch record, with 229 successful launches in 231 attempts over the past ten years.

In connection with the design of its system, Final Analysis has undertaken a number of activities intended to ensure successful deployment of its innovative technology and to advance the visibility of the Little LEO industry on a world-wide basis. In particular, Final Analysis has obtained authorization for two experimental Little LEO satellites, FAISAT-1 and FAISAT-2v. FAISAT-1 was successfully launched on a Cosmos rocket by Polyot in January, 1995. It received world-wide attention as the first launch of a United States commercial satellite on a Russian launch vehicle. The FAISAT-1 satellite also carried, as a secondary payload, a United States Air Force thermal technology experiment. The launch was the culmination of a unique cooperative venture between Final Analysis, NASA, the United States Air Force and Polyot. Overall, the launch demonstrated the viability of Final Analysis's spacecraft design and separation system.

FAISAT-2v, Final Analysis' second experimental satellite, which is nearly fully constructed and paid for, will be launched later this year. The objective of the second experimental satellite is to fully test the ground segment. In connection with its planned launch of FAISAT-2v, Final Analysis has begun the development of a test program to be conducted with foreign governments to demonstrate service applications of the Final Analysis Little LEO system and to test frequency sharing issues.

Final Analysis also has entered into an agreement with another Little LEO licensee, Volunteers in Technical Assistance ("VITA"), for construction and launch of VITA's first authorized satellite as part of a joint arrangement involving FAISAT-2v. Thus, the launch of Final Analysis' second experimental satellite will directly facilitate implementation of VITA's life-saving humanitarian communications services to remote parts of the United States and to developing countries around the world.

Since its entry into this industry, Final Analysis has been a leader in seeking innovative means of advancing visibility of the Little LEO industry on a world-wide basis. Final Analysis is an active participant in all U.S. and international forums concerning frequency allocations for and authorization of Little LEO systems, including preparations for the upcoming WRC-97 which will focus significant attention on Little LEO allocation issues. Final Analysis also is engaged in discussions with many regulatory authorities in many foreign countries, including Germany, Poland, Indonesia, Mongolia, Uruguay, Colombia and Senegal to develop strategic alliances for the development of Little LEO services on a global basis.

Final Analysis is ready, willing and able to commence construction of its first two commercial satellites immediately, with an eye to their deployment in space as soon as spectrum-availability and regulatory issues are resolved. Final Analysis understands the various risks involved, and accepts them as part of its business plan.

## 2. Grant Of This Waiver Request Is In The Public Interest

The public interest, convenience and necessity will be served by grant of this waiver request. Such a grant will enhance the ability of Final Analysis to provide prompt Little LEO commercial satellite service to the United States market and globally. Little LEO technology is new, and each system is different. Moreover, significant construction lead time is a concomitant feature of Little LEO constellation design. Under the best of circumstances, it will take over a year for Final Analysis to prepare the first set of satellites for launch, and will take several more years to get the full constellation constructed and in orbit.

Final Analysis's system utilizes state of the art programmable processors which permit maintenance of large storage capacity for memory-intensive services. The system also utilizes a frequency agile transceiver which will permit frequency sharing and flexible operations depending upon spectrum availability in different regions. The Final Analysis satellites also incorporate a proprietary polling strategy which permits more efficient operation. The incorporation of all of these innovative features within Final Analysis's system will be time consuming. Allowing for Final Analysis to begin construction will reduce delays and ultimately permit Final Analysis more quickly to deploy its system and bring its valuable services to market.

Grant of this waiver will also serve the public interest by enabling Final Analysis to maintain and expand its technological advantage over foreign competitors, thereby enhancing United States leadership in this emerging global industry. Permitting companies to move forward if they are willing to do so is in the long-range interest of the industry and the public it serves.

Final Analysis' request for waiver is entirely consistent with applicable Commission precedent, which generally favors leaving marketplace decisions to business rather than the government. The Commission has already recognized the importance of this approach in the Little LEO industry. Orbital Communications Corporation, a First Round Little LEO licensee and a Second Round applicant, likewise was granted a 319(d) waiver to construct its satellite system. See *In The Matter of Application of Orbital Communications Corporation*, 9 FCC Rcd 6476 at ¶ 6 n.16 (1994). Similarly, 319(d) waivers were granted by letters issued by the Chief, International Bureau to three "Big LEO" applicants on October 20, 1994 to commence construction of their satellite systems. See "Loral Qualcomm, Mobile

Communications, Motorola Satellite Granted Waivers to Begin Construction of Big LEO Systems," Report No. IN-2, 194 FCC Lexis 5261 (October 26, 1994).

The Commission's approach to such issues recently was well articulated in *In Re Satellite CD Radio, Inc. Requests for Section 319(d) Waiver*, 10 FCC Rcd 10949 (1995), in which the Chief, International Bureau granted CD Radio's request for a waiver to commence building of its digital audio radio service ("DAR") satellite system, stating:

We hereby grant CD Radio's 1993 request. It usually takes years to construct satellites. Allowing CD Radio to begin construction without a permit will help ensure that the public can benefit from satellite DARS as soon as possible -- in the event that the Commission eventually licenses CD Radio to provide this service. Given the amount of capital at stake, and the possibility that the Commission may not license CD Radio, this may be a risky proposition for CD Radio. But if CD Radio wishes to commit funds to begin construction, we see no reason to prevent it from doing so. We think this should be a business decision, not a government decision.

10 FCC Rcd 10949 at ¶ 10 (emphasis supplied). The Commission has specifically noted that, in the satellite industry allowing companies to undertake construction without a construction permit may insure that the public receives new and innovative services as quickly as possible.<sup>2</sup>

Final Analysis willingly will assume business risks involved and acknowledges that this action will not affect the Commission's licensing process, and is squarely in keeping with the instances in which the Commission has granted similar requests in the satellite industry. Accordingly, the request should be granted.

---

<sup>2</sup> See *In the Matter of Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures*, 10 FCC Rcd 10624 at ¶ 8 (1995).



Conclusion

In view of the foregoing, Final Analysis requests that the Commission grant it a waiver under Section 319(d) of the Communications Act for construction of the first two satellites of its proposed Little LEO commercial satellite system.

Respectfully submitted,

**FINAL ANALYSIS COMMUNICATION  
SERVICES, INC.**

By



Aileen A. Pisciotta

**KELLEY DRYE & WARREN, L.L.P.**

1200 19th Street, N.W., #500

Washington, D.C. 20036

Telephone: (202) 955-9600

Facsimile: (202) 955-9792

Its Attorney

Dated: July 19, 1996

### Certificate of Service

I hereby certify that on this 19th day of July, 1996, the undersigned caused a true and complete photocopy of the foregoing "Request for Waiver" to be sent, via U.S. first class mail, postage prepaid, to the following:

\*Chairman Reed Hundt  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20054

\*Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W.  
Room 832  
Washington, D.C. 20054

\*Commissioner James H. Quello  
Federal Communications Commission  
1919 M Street, N.W.  
Room 802  
Washington, D.C. 20054

\*Commissioner Rachelle B. Chong  
Federal Communications Commission  
1919 M Street, N.W.  
Room 844  
Washington, D.C. 20054

\*Donald Gips, Chief  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Room 830  
Washington, D.C. 20554

\*Mr. Thomas S. Tycz, Chief  
Satellite & Radiocommunications Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Room 520  
Washington, D.C. 20554

\* Hand Delivered

\*Fern Jarmulnek, Chief  
Satellite Licensing Branch  
Satellite & Radiocommunications Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
5th Floor  
Washington, D.C. 20554

Paula Ford, Esquire  
Satellite & Radiocommunications Division  
Federal Communications Commission  
International Bureau  
2000 M Street, N.W.  
5th Floor  
Washington, D.C. 20554

Harold Ng, Chief  
Satellite Engineering Branch  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Room 512  
Washington, D.C. 20554

James Talens, Deputy Chief  
Satellite Engineering Branch  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Room 513  
Washington, D.C. 20554

Albert Halprin, Esquire  
Halprin, Temple & Goodman  
Suite 650 East Tower  
1100 New York Avenue, N.W.  
Washington, D.C. 20006  
COUNSEL FOR ORBCOMM

Raul Rodriquez, Esquire  
Leventhal, Senter & Lerman  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006  
COUNSEL FOR STARSYS

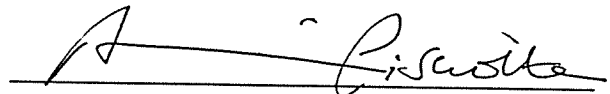
Joseph Godles, Esquire  
Goldberg, Godles, Wiener & Wright  
1229 19th Street, N.W.  
Washington, D.C. 20036  
COUNSEL FOR VITA

Robert A. Mazer, Esquire  
Vinson & Elkins  
1455 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
COUNSEL FOR LEO ONE USA

Mr. Philip V. Otero  
Vice President & General Counsel  
GE American Communications, Inc.  
Four Research Way  
Princeton, New Jersey 08540  
COUNSEL FOR GE AMERICOM

Phillip L. Spector, Esquire  
Paul, Weiss, Rifkind, Wharton & Garrison  
1615 L Street, N.W.  
Washington, D.C. 20036  
COUNSEL FOR CTA

Leslie A. Taylor, Esquire  
Leslie Taylor Associates, Inc.  
6800 Carlynn Court  
Bethesda, MD 20817  
COUNSEL FOR E-SAT

  
Aileen A. Pisciotta