



Federal Communications Commission
Washington, D.C. 20554

DA 04-1755

June 30, 2004

Mr. Luiz Prates
Praia de Botafago 228, 3o and
Rio de Janeiro
Brazil

Re: Petition for Declaratory Ruling To Add the Star One C2 Satellite at 70°
W.L. to the Permitted Space Station List, Call Sign S2625, File No.
SAT-PPL-20040429-00086.

Dear Mr. Prates:

On April 29, 2004, Star One S.A. (Star One) filed a petition to add its Star One C2 satellite at 70° W.L. orbital location in the 3700-4200, 5925-6425, 11700-12200, 14000-14500 MHz frequency bands, which is licensed by Brazil, to the Commission's Permitted Space Station List (Permitted List). For the reasons discussed below, we dismiss the petition as defective, without prejudice to refile.

Section 25.114(c) of the Commission's rules¹ requires all space station applicants, including those filing petitions to be added to the Commission's Permitted List, to submit all applicable items of information listed in its subsections. In the *First Space Station Reform Order*,² the Commission affirmed the policies embodied in this rule by continuing to require applications to be substantially complete when filed.³ As the Commission noted, the procedures and rules it adopted will enable the Commission to establish satellite licensees' operating rights clearly and quickly, and as a result, allow licensees to provide service to the public much sooner than might be possible under our previous licensing procedures.⁴ Finding defective applications acceptable for filing is not consistent with the rules and policies adopted by the Commission in the *First Space Station Reform Order* and only serves to create uncertainty and inefficiencies in the licensing process. Thus, the Commission further emphasized in that Order that non-U.S.-licensed satellite operators seeking access to the U.S. market by filing earth station applications or petitions for declaratory Ruling to be added to the Permitted List will be required to provide the same

¹ 47 C.F.R. § 25.114(c).

² Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10852 (para. 244) (2003) (*First Space Station Reform Order*); International Bureau To Streamline Satellite And Earth Station Processing, *Public Notice*, Report No. SPB-140, October 28, 1998 (emphasizing the obligation to comply with 47 C.F.R. § 24.114(c) and stating that applications that did not comply would be dismissed).

³ *First Space Station Reform Order*, 18 FCC Rcd at 10852 (para. 244), citing *Space Station Reform NPRM*, 17 FCC Rcd at 3875 (para. 84).

⁴ *First Space Station Reform Order*, 18 FCC Rcd at 10765-66 (para. 4).

technical information regarding the foreign satellites as U.S. satellite license applicants provide for proposed U.S. satellites.⁵

Sections 25.140 and 25.114 of the Commission's rules require applicants requesting launch and operating authority for space stations in the Fixed-Satellite Service (FSS), to provide, among other things, a 2-degree interference analysis.⁶ The interference analysis must demonstrate the compatibility of the applicant's proposed satellite "2 degrees from any authorized space station."⁷ Such a showing is required, among other reasons, because the Commission's rules provide that an application may only be granted if the proposed satellite will not cause harmful interference to any previously licensed operation.⁸

The Commission has authorized AT&T Corp⁹ to operate its Telstar-9 satellite, formally Telstar 6, at 69° W.L. orbital location in the same frequency bands as Star One C2, *i.e.*, the 3700-4200, 5925-6425, 11700-12200, 14000-14500 MHz frequency bands. Star One's interference analysis did not include any reference to this satellite nor did Star One seek a waiver of providing a 2-degree interference analysis with respect to authorized space stations within two degrees of the proposed satellite.¹⁰ Sections 25.112(a)(2) and (b)(1) of the Commission's rules state that an application that does not substantially comply with the Commission's rules will be returned to the applicant as unacceptable for filing unless the application is accompanied by a waiver request with reasons supporting the waiver. Thus, Star One's petition is inadequate and not acceptable for filing.

Consequently, Star One S.A.'s application in the 3700-4200, 5925-6425, 11700-12200, 14000-14500 MHz bands is defective under Section 25.140(b)(2) of the Commission's rules and must be dismissed pursuant to Section 25.114(c)(17).

⁵ See *First Space Station Reform Order*, 18 FCC Rcd at 10872 (para. 300).

⁶ 47 C.F.R. § 25.140(b)(2) and § 25.114 (c)(17). For more information regarding the Commission's two-degree spacing policy, see *Licensing Space Stations in the Domestic Fixed-Satellite Service*, 48 F.R. 40233 (Sept. 6, 1983).

⁷ See Clarification of 47 C.F.R. § 25.140(b)(2), *Space Station Application Interference Analysis, Public Notice*, No. SPB-195, DA 03-3863 (rel. Dec. 3, 2003) (clarifying the types of showings that must be provided). See Clarification of 47 C.F.R. § 25.140(b)(2), *Space Station Application Interference Analysis, Public Notice*, No. SPB-207, DA 04-1708 (rel. June 16, 2004).

⁸ See 47 C.F.R. § 25.158(3)(ii).

⁹ This application was assigned to Loral Spacecom Corporation January 17, 1997 and subsequently renamed Telstar-9. See *Applications of AT&T Corp. Assignor and Loral Spacecom Corporation, Assignee, For Authority to Assign the Licenses for Telstars 302, 303, 401, 402R, 5, and 6, and Associated Earth Station and Common Carrier Authorizations*, DA 97-125, 12 FCC Rcd. 925 (rel. Jan. 17, 1997).

¹⁰ Technical appendix, page 42 (lists the AMC-6 authorization at 72° W.L., but does not mention the Telstar-9 authorization at 69° W.L. orbital location).

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 25.114(c)(17), we find that this petition, SAT-PPL-20040429-00086, is defective. We therefore dismiss the petition as amended without prejudice to refiling.

Sincerely,

Thomas S. Tycz
Chief
Satellite Division

cc: Alfred Mamlet
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