

April 22, 2004

Mr. Koichiro Matsufuji  
Space Communications Corporation  
2-8, Higashi-shinagawa 2-chome  
Shinagawa-ku, Tokyo, 140-0002  
Japan

Re: Petition for Declaratory Ruling to Add SUPERBIRD-C Satellite at 144° E.L. orbital location to the Commission's Permitted Space Station List, File Nos. SAT-PPL-20040120-00006, SAT-AMD-20040331-00071 and SAT-AMD-20040331-00072, Call Sign: S2614

Dear Mr. Matsufuji:

On January 20, 2004, Space Communications Corporation ("Space Comm") filed a petition to add the SUPERBIRD-C satellite, which is licensed by Japan, to the Commission's Permitted Space Station List ("Permitted List"). On March 31, 2004, Space Comm filed two amendments to its petition to provide additional technical information. For the reasons discussed below, we dismiss the amended petition as defective, without prejudice to refile.

Section 25.114(c) of the Commission's rules<sup>1</sup> 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*,<sup>2</sup> the Commission affirmed the policies embodied in this rule by continuing to require applications to be substantially complete when filed.<sup>3</sup> 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.<sup>4</sup> Finding defective applications acceptable for filing is not consistent with the rules and policies adopted by

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<sup>1</sup> 47 C.F.R. § 25.114(c).

<sup>2</sup> 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).

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

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

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 to be added to the Permitted List will be required to provide the same technical information regarding the foreign satellites as U.S. satellite license applicants provide for proposed U.S. satellites.<sup>5</sup>

In its amended petition, Space Comm states that it plans to design a geostationary satellite capable of being maintained in orbit within +/- 0.1° of its assigned orbital longitude.<sup>6</sup> Section 25.210(j)(1), however, requires fixed satellite service satellites in geostationary-satellite orbit, such as SUPERBIRD-C, to be designed to be capable of being maintained in orbit within +/- 0.05° of their assigned orbital longitudes.<sup>7</sup> Thus, Space Comm's proposed satellite does not comply with the Commission's rules. Moreover, Space Comm has not requested a waiver of Section 25.210(j)(1). 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.

Accordingly, pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(a)(4), we find that this petition, File No. SAT-PPL-20040120-00006, as amended by File Nos. SAT-AMD-20040331-00071 and SAT-AMD-20040331-00072, is defective. We therefore dismiss the petition as amended without prejudice to refile.

Sincerely,

Thomas S. Tycz  
Chief  
Satellite Division

cc: Ms. Laura B. Sherman  
3335 N. Randolph Street  
Arlington, VA 22207  
U.S.A.

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

<sup>6</sup> Application File No. SAT-AMD-20040331-00072 (Page 1 of Application and page 6 of the Technical Appendix).

<sup>7</sup> 47 C.F.R. § 25.210(j)(1).