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March 11, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Mail Stop 1170
Washington, D.C. 20554

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Re: Petitions for Rulemaking of WINForum (RM-8648) and Apple Computer, Inc. (RM-8653)

Dear Mr. Caton:

L/Q Licensee, Inc. ("LQL"), licensee of the Globalstar™ non-geostationary mobile satellite system ("NGO MSS"), hereby responds to the joint letter of WINForum and Apple Computer, filed on February 29, 1996 ("letter"). The ostensible purpose of the letter is to inform the Commission that the petitioners have reached substantial agreement between themselves regarding unlicensed use of the 5 GHz band for "very high data rate local systems and the concept of relatively longer range, so-called 'community network' products." They urge the Commission to expedite the issuance of a Notice of Proposed Rulemaking allocating frequencies for this purpose.

LQL not only disagrees with Apple's and WINForum's premises, but also believes that the letter does not accurately represent the state of so-called "consensus" concerning the allocation that they seek. While WINForum's willingness to withdraw its request to use 5100-5150 MHz may satisfy NTIA's principal objection, petitioners may not simply ignore these other salient facts: (1) LQL has conditional authority to construct

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feeder uplinks in the 5025-5225 MHz band and will, in fact, use the 5091-5250 portion of the band subject to final Commission approval; (2) the Commission and the United States persistently advocated, and won, a worldwide allocation for MSS feeder links in this band at WRC-95; (3) the Commission was well-aware of Apple's and WINForum's proposed unlicensed use of the band but specifically declined to take it into account in planning for WRC-95 or WRC-97; and (4) many countries in Europe, North Africa and the Middle East have already adopted primary allocations for NGO MSS feeder links between 5150 and 5250 MHz consistent with WRC-95. Thus, this potentially incompatible use of this band would not only undermine the Commission's past efforts, but could also compromise the viability of the worldwide allocation adopted for NGO MSS feeder links by WRC-95.

More specifically, the Commission has always required potential unlicensed users of a band allocated on a primary or co-primary basis to other services to demonstrate that they will not cause interference to the licensed users. Apple has not submitted any technical sharing studies; WINForum's initial effort was based on possibly incorrect, and now obsolete, information. In contrast, LQL demonstrated in its July 10, 1995, Opposition to the petitions that Apple's proposal would result in severe harmful interference, that even WINForum's proposal would cause interference under some quite plausible circumstances, and that in any event it is not feasible for NGO MSS licensees to coordinate with nomadic unlicensed operators. Finally, LQL also noted that its earth station transmitters could interfere in a wide geographical area with unlicensed wireless devices operating in the band.

Apple's and WINForum's statement that, by agreeing not to operate in the portion of the 5 GHz band used by the FAA (5100-5150 MHz), they have removed the only significant impediment to allocation for unlicensed devices is disingenuous at best. These parties are fully aware that they will interfere with MSS feeder links between 5150 and 5250 MHz unless they substantially revise their technical proposal and acknowledge that unlicensed devices must operate on a strictly secondary, non-interference basis. Absent such concessions in the (now-joint) Apple/WINForum proposal, the Commission has no record upon which to adopt any Notice of Proposed Rulemaking. LQL, therefore,

renews its request that the Commission either dismiss these two petitions outright or exclude 5150-5250 MHz from any NPRM.

Respectfully submitted,

LORAL/QUALCOMM LICENSEE, INC.

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