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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
The Establishment of Commission Rules)
concerning the Administration of)
Accounting Authorities in the Maritime)
Mobile and the Maritime Mobile-)
Satellite Radio Services Except for)
Distress and Safety Communications)

MD Docket No. 93-297

To: The Commission

REPLY OF COMSAT CORPORATION

COMSAT Corporation ("COMSAT"), through its COMSAT Mobile Communications division, hereby submits its Reply to the comments filed on February 3, 1994, in response to the Notice of Proposed Rulemaking ("NPRM") adopted in the above-captioned proceeding.¹

Many of the concerns raised by COMSAT in its Comments on the NPRM have been repeated by other Commentors in this proceeding. Among the most important of these concerns is the need to strengthen the financial standards for certification as a U.S. accounting authority. Equally important is the need to clarify the responsibilities and liabilities of accounting authorities as they conduct their settlement operations and to expedite the settlement process consistent with good business practices.

COMSAT strongly disagrees, however, with those Commentors which seek to restrict the certification process by grandfathering interim accounting authorities or otherwise

¹Notice of Proposed Rulemaking, MD Docket No. 93-297, released December 17, 1993.

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excluding entire classes of potential applicants. COMSAT also opposes the adoption of a strict requirement that U.S. accounting authorities act as common carriers or that they automatically lose their certification upon a transfer of control.

In the instant Reply, as in COMSAT's Comments, COMSAT urges the Commission to license and regulate accounting authorities on the basis of sound commercial practices designed to protect both the customer and the service provider and to facilitate the international settlement process.

I. Eligibility Should Not be Restricted to Grandfathered Applicants or to Certain Classes of Applicants

Several Commentors have requested that interim accounting authorities be exempt from application filing requirements and that their interim certification be grandfathered by the Commission. See Exxon Comments at 3-4; Mackay Comments at 2. While there is no doubt that many interim accounting authorities have performed excellent service over the years, the mere fact that an entity filed early, before any formal rules for service were adopted, should not be an advantage in licensing such entities now. The Commission's interim certification procedures were never intended as a permanent authorization mechanism and did not provide the opportunity for public comment that is required by the Communications Act of 1934. Moreover, given the limited number of accounting authority identification codes ("AAICs") available for assignment, it would be unfair to further limit their number in this manner.

COMSAT agrees that prior experience as an accounting authority is a relevant factor to be considered as part of the qualification process, but it should not be the sole determining factor. Nor should such experience automatically advance an interim accounting authority to the front of the processing line or exempt it from demonstrating its present financial qualifications. Other types of commercial, financial and transactional experience may demonstrate that an applicant -- which is not presently an accounting authority -- is qualified to perform the settlement functions of an accounting authority.

For that reason, COMSAT strongly opposes any limitation on land earth station ("LES") operators' eligibility to become accounting authorities. See Mackay Comments at 2. Facilities-based service providers such as COMSAT have the financial wherewithal and experience with international settlement operations to fulfill the accounting authority function. As a LES operator and maritime mobile satellite service provider, entities such as COMSAT also can provide a more efficient billing and collection process. Moreover, LES operators have a vested interest in the timely settlement of accounts and have more at risk to justify their involvement in the settlement process than many other entities which may seek certification.

COMSAT also opposes the imposition of an outright ban on accounting authorities that process settlements exclusively for their own vessels. Id. Such entities serve an important function for their fleet which the Commission has recognized in

the interim certification process. Nonetheless, because of the limited number of AAICs available, it may be advisable for the Commission to impose certain conditions on the certification awarded to such entities. For example, the Commission may wish to reserve the right to require such accounting authorities to serve all customers, or relinquish their AAIC, when there are no additional AAIC codes available for future applicants and there is a demonstrable need for broader-based services.

COMSAT questions the suggestion made by one Commentor that the Commission remove itself (e.g. US01) from the accounting authority business. Id. While COMSAT agrees that the Commission needs to clarify its continuing role as an accounting authority under the new regulatory structure, COMSAT believes that the Commission can still be an impartial administrator of these rules even if it continues to settle accounts for the general public.

A number of Commentors have suggested that, to be eligible for certification, the settlement operations of U.S. accounting authorities should be conducted exclusively in the United States. See, e.g., Radio Holland Comments at 3. While COMSAT opposes an absolute ban on foreign-based settlement operations, COMSAT believes the Commission should reserve the right to process U.S.-based accounting authority applications before those of foreign-based applicants if the Commission receives more applications than the available number of AAICs. COMSAT agrees that the Commission should consider, as part of the certification process, whether the foreign administration which licensed the non-U.S.

accounting authority permits U.S. entities to apply for an AAIC code in its country. Mackay Comments at 2. COMSAT also supports the recommendation that the Commission consider the foreign-based applicant's record in dealing with U.S. service providers. See Radio Holland Comments at 2.

Finally, several Commentors express concern for customers of interim accounting authorities which may be denied certification by the Commission. See, e.g., Radio Holland Comments at 2. COMSAT agrees that the Commission needs to clarify the process for evaluating all applications and to specify the appeal rights of applicants which are denied certification. COMSAT proposes that the Commission adopt a thirty-day petition to deny process for reviewing all applications and that applicants be entitled to pursue the full administrative procedures of reconsideration and appellate review provided for in Sections 405 and 402 of the Communications Act of 1934. Adoption of such procedures would permit full and vigorous consideration of the applicant's qualifications while protecting the interests of customers and service providers during the period in which the interim operator's application is under scrutiny.

II. The Accounting Authority Rules Should Encourage Efficient Settlement Operations

COMSAT supports the efforts of all Commentors in this proceeding to improve the efficiency of settlement operations and to clarify the responsibilities and liabilities of U.S. accounting authorities. Among the most important of these

concerns is the need to reduce the current six-month settlement period. Mobile Marine Radio, Inc. ("MMR"), like COMSAT, has advocated reducing the settlement period to four months, or less, to permit more efficient settlement of accounts. MMR Comments at 2. Given the capability for electronic billing and credit card payment and verification procedures, there is no excuse for maintaining an extended settlement period. COMSAT agrees that accounting authorities which do not make timely settlement of accounts should be assessed an interest penalty by the Commission.

COMSAT also supports the recommendation that the Commission require accounting authorities to verify the credit worthiness of their customers to help ensure that payment will ultimately be made to the service provider. Id. COMSAT agrees that accounting authorities should be a guarantor of payment and should be jointly liable with the customer for the service charges incurred. Accounting authorities should be able to conduct settlement operations as a business, with the right to reject customers they determine are credit risks. To further this goal we suggest that the Commission consider requiring accounting authorities to take a deposit from customers before contracting to settle their accounts.

Two Commentors have asked the Commission to modify its proposed Rule Section 3.51 to permit the transfer of the accounting authority certification pursuant to the sale or transfer of control of an accounting authority's operations.

Radio Holland Comments at 3; Mackay Comments at 3. COMSAT supports this proposed modification. We note that other countries, such as the United Kingdom, permit the sale or merger of accounting authority operations and we encourage the Commission to do the same. However, when there is a merger of two existing accounting authorities, COMSAT suggests that the merged entity be instructed to use only one AAIC code.

In our view, a transfer of control should not result in automatic cancellation of the accounting authority certification. Rather, as with radio station licenses issued by the Commission, the Commission should consider the proposed transfer on its merits with full notice and comment participation by the public. In addition, the transferee should be required to meet the same financial and legal eligibility requirements imposed on initial applicants for certification. Such procedures would permit entities to sell viable commercial operations while ensuring that all licensees are qualified to act as accounting authorities under the Commissions' Rules.

III. Reporting Requirements and Enforcement Mechanisms Should Facilitate the Oversight of Settlement Operations

COMSAT supports the adoption of streamlined reporting requirements which provide the Commission and the public with an accurate and reliable mechanism for monitoring the aging of accounts and assessing the financial performance of accounting authorities. COMSAT agrees with Exxon that the inventory reporting requirement could be modified so that non-commercial

accounting authorities need only report changes to inventory when they occur. See Exxon Comments at 4-5. However, commercial accounting authorities which are constantly adding and deleting customers should still be required to submit monthly inventory reports so that the international settlement process can function smoothly.

COMSAT opposes any limitation on the applicability of the annual statistical report summarizing settlement operations. See id. at 5. The Commission must have some mechanism by which to assess the accounting authority's performance of its settlement operations and to determine whether the accounting authority is meeting its obligations to customers and service providers. Because this type of financial information helps service providers avoid fraud and debt collection problems, COMSAT has proposed in its Comments that statistical reports be filed quarterly to promote early detection of problem accounts. See COMSAT Comments at 13. The Commission could use these reports to compile a database of customer credit history which would provide an information resource for accounting authorities and service providers.

Finally, COMSAT endorses the suggestion made by MMR that service providers be able to "enlist the assistance" of the Commission in attempting to resolve bad debt and toll fraud issues. MMR Comments at 3-4. COMSAT, like MMR, has faced situations in which large accounts have gone unpaid for months beyond the settlement period due to a dispute between the

customer and a foreign accounting authority. To rectify this situation, COMSAT urges the Commission to clarify that accounting authorities certified by the United States have submitted to the Commission's jurisdiction and may be sanctioned by the Commission for failing to perform settlement operations here, or abroad, involving either U.S.-registered or foreign vessels.

CONCLUSION

The Commission should license and regulate U.S. accounting authorities on the basis of sound commercial practices designed to protect both the customer and the service provider and to facilitate efficient settlement of maritime radio and mobile satellite radio accounts. To better promote these goals, COMSAT urges the Commission to clarify and modify its proposed NPRM consistent with COMSAT's Comments and the instant Reply.

Respectfully Submitted,
COMSAT Corporation

By: 
Nancy J. Thompson

COMSAT Mobile Communications
22300 COMSAT Drive
Clarksburg, MD 20871

(301) 428-2268

Its Attorney

February 18, 1994

CERTIFICATE OF SERVICE

I, Pamela L. Sonnevile, hereby certify that the foregoing "Reply of COMSAT Corporation" was served by first-class mail, postage prepaid, this 18th day of February, 1994, on the following persons:

Wayne V. Black
Michael R. Bennet
Keller and Heckman
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

Mr. C. Wilberts
SAIT Communications Inc.
8931 Gulf Freeway
Houston, Texas 77017-7004

W. Bon
Commercial Mgr. & Assist. to G.M.
Radio Holland USA B.V.
8943 Gulf Freeway
Houston, TX 77017

Francis C. Neary
Vice President - Controller
Mackay Communications, Inc.
2721 Discovery Drive
Raleigh, NC 27604-1851

John D. Klemm
Mobile Marine Radio, Inc.
7700 Rinla Avenue
Mobile, Alabama 36619-1199

N. S. Bond
Radio Traffic Manager
Marconi Marine
GEC-Marconi Communications Limited
Waterhouse Lane
Chelmsford, Essex CM1 2QX
UNITED KINGDOM

J. M. Johnson
Radio Traffic Manager
Peninsular Electronics
Broadquay House, Eagles Wood Business Park
Woodlands Lane, Almondsbury, Bristol BS12 4EU
UNITED KINGDOM

Peter D. Church
President
Global Communications Corporation
P.O. Box 7009
Saint Thomas
U.S. VIRGIN ISLANDS 00801

Pamela L. Sonnevile
Pamela L. Sonnevile