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

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
COMSAT Petition for Partial Relief )  
from the Current Regulatory Treat- )  
ment of COMSAT World Systems' )  
Switched Voice, Private Line, and )  
Video and Audio Services )

RM-7913

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**COMMENTS OF**  
**IDB COMMUNICATIONS GROUP, INC.**

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## SUMMARY

IDB Communications Group, Inc. is deeply concerned about the implications of Comsat's proposal that the tariffs for all its monopoly INTELSAT services be subject to only fourteen days' notice, presumed lawful, and subject to minimal cost support. In accord with well-established Commission precedent, IDB submits that the requested relief should not be granted except to the extent that Comsat can demonstrate that actual, substantial, and effective competition exists on a country-by-country, service-by-service basis. Comsat's present Petition fails to meet this standard.

As Comsat itself recognizes, only undersea fiber optic cables and separate satellite systems offer even the potential of a competitive alternative to Comsat's provision of INTELSAT services. However, even Comsat's own market study shows that these "alternatives" do not offer effective competition to many of Comsat's services in many geographic regions. For example, INTELSAT currently carries virtually all international point-to-point and point-to-multipoint video and television transmissions. In contrast, separate satellite systems offer only limited capacity and geographic coverage, and cannot begin to compete with the existing infrastructure of INTELSAT-based international earth stations. Fiber optic service also is not an economical or practical substitute for satellite service used to provide international video and television services, especially for point-to-multipoint applications.

Likewise, Comsat carries a substantial percentage of all IMTS and IBS traffic. Separate satellite systems offer no real competition because of their limited capacity and geographic coverage, as well as government limitations on providing IMTS. Undersea fiber optic cables also are not an adequate substitute for INTELSAT services because these cables still do not provide service to most of the world, including Africa, South America, and the Middle East. Moreover, many countries reached by cable still rely on satellites because they lack terrestrial interconnectivity beyond the major cities.

Comsat also has failed to address well-founded concerns about the harm that would be caused if the Commission reduced the tariff filing requirements applicable to all of Comsat's monopoly INTELSAT services. Customers would have only a limited amount of time to challenge Comsat's tariff filings, and would be forced to overcome a presumption of lawfulness in all instances. A reduced cost support requirement also would make it far more difficult for customers and competitors to analyze Comsat's tariff filings and to challenge any cross-subsidization of competitive services by services lacking any real competition.

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**COMMENTS OF**  
**IDB COMMUNICATIONS GROUP, INC.**

IDB Communications Group, Inc. ("IDB") hereby submits its Comments in response to the Petition for Partial Relief ("Petition") filed in this proceeding by COMSAT Corporation ("Comsat") seeking "a modification of the existing tariff regulations governing COMSAT World Systems' line-of-business services." Petition at 34. For the reasons set forth below, the Commission should not reduce any of the existing tariff regulations governing Comsat's provision of INTELSAT services without a detailed showing that Comsat faces actual, substantial, and effective competition in the relevant geographic markets for each of its services.

**I. IDB HAS A SUBSTANTIAL INTEREST IN THIS PROCEEDING**

Given its unique role in the satellite services market, IDB has a substantial interest in this proceeding. IDB is one of the largest purchasers of INTELSAT services from Comsat, especially Comsat's non-International Message Telephone Service (IMTS) space segment services. In particular, IDB is a leading

supplier of both International Television Service (ITS) and International Business Service (IBS) using transponder capacity on INTELSAT satellites.

**II. COMSAT HAS FAILED TO ADEQUATELY SUPPORT ITS REQUEST FOR RELIEF FROM ITS TARIFF FILING REQUIREMENTS**

**A. Cosat Has Failed To Demonstrate That Actual, Substantial, and Effective Competition Exists In All Relevant Markets**

Cosat "requests authority to file tariffs on fourteen days' notice, with a presumption of lawfulness and with minimal cost support data, for all its INTELSAT common carrier satellite services." Petition at 34. Cosat sees its request as "laying the proper foundation for more comprehensive action in the future," namely, "substantial deregulation" and "a rulemaking proceeding to change its carrier classification status to non-dominant...." Petition at 34. In support of its request, Cosat cites a market study accompanying its Petition which it claims "demonstrates that market conditions justify the interim relief COMSAT now seeks." Petition at 35. Cosat insists that "competition in trans-oceanic facilities today is sufficiently robust" to prevent Cosat from discriminating unreasonably or otherwise charging unlawful rates. Petition at 17.1/

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1/ Cosat states that another purpose of its filing is to "supplement[] the information before the Commission" related to Cosat's January 1992 petition to apply price caps to its long-term IMTS services. Petition at 1; see COMSAT Petition for Rulemaking to Modify the Regulatory Treatment of COMSAT World Systems' Multi-Year Fixed-Price Carrier-to-Carrier Contract-Based (continued...)

IDB submits that Comsat, the monopoly provider of INTELSAT space segment, has not justified the purported public interest benefits of reducing the tariffing requirements governing all its INTELSAT services. In particular, Comsat's Study falls far short of demonstrating that customers' actual needs can be met by competitive alternatives.<sup>2/</sup> As the FCC determined in the International Competitive Carrier proceeding, a key issue that must be considered is the level of "demand substitutability," or the ability and willingness of customers to switch between different types of transmission technologies. International Competitive Carrier Policies, Report and Order, CC Docket No. 85-107, 102 F.C.C.2d 812, 824 (1985). The FCC said that the availability, geographic coverage, and cost of alternative service(s) are all relevant factors to this inquiry. Id. In contrast, Comsat focuses on other, far less relevant factors, such as sophistication of users, number of vendors, bandwidth capacity, and relative level of Comsat's assets. Petition at 18-32. As a result, Comsat avoids addressing the central question: whether the only two types of potential competition available --

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<sup>1/</sup>(...continued)

Switched-Voice Services, RM-7913 (filed January 30, 1992). IDB filed comments in that proceeding expressing strong concern about improper cost-shifting incentives created by Comsat's proposal. See Comments of IDB Communications Group, Inc., RM-7913 (filed April 6, 1992). Comsat's new filing does not dispel any of IDB's original concerns about Comsat's price caps proposal.

<sup>2/</sup> Among the other flaws in Comsat's analysis is its heavy reliance on a mix of projections about presumed future competition, rather than viewing the relevant markets as presently constituted.

undersea fiber optic cables ("intermodal") and separate satellite systems ("intramodal") -- can actually meet customer needs.

In order to make an adequate showing for any proposed deregulation, IDB submits that Comsat must be required to prove that actual, substantial, and effective competition exists on a country-by-country, service-by-service basis. The Commission has recognized that, for purposes of determining eligibility for streamlined regulation of international services, competition should be measured using individual countries as separate geographic markets because "a country-by-country geographic market approach best reflects the reality of the international marketplace." International Competitive Carrier Order, 102 F.C.C.2d at 822. The FCC also indicated that an analysis of relevant economic factors should focus on several different product markets -- namely, IMTS, non-IMTS (such as private line service), and television service. Id. at 823-828. Likewise, in the Inter-exchange Competition proceeding, the FCC required AT&T to make just such a service-by-service showing, and the Commission ultimately granted limited streamlining of only certain AT&T business services based on that specific showing. See Report and Order, CC Docket No. 90-132, 6 FCC Rcd 5880 (1991). Based on this well-established precedent, the FCC in this instance also should require a route-by-route, service-by-service showing of actual, substantial, and effective competition before even

considering relaxing any regulatory controls over Comsat's provision of INTELSAT-based satellite services.<sup>3/</sup>

**B. There Is No Effective Competition For Many Of Comsat's Services In Many Geographic Regions**

**1. Wideband Video and Television Services**

As the FCC concluded in the International Competitive Carrier Order, "[t]elelevision service is a unique offering with limited demand or supply substitutes." 102 F.C.C.2d at 828 n.37. The Commission noted that the substantial amounts of bandwidth and considerable expense required to transmit international video and television signals greatly limit the ability of users to utilize alternative suppliers. Id. As a result, it is not surprising that INTELSAT carries virtually all international point-to-point and point-to-multipoint video and television transmissions. As Comsat's own study shows, Comsat has a 100 percent market share for trans-oceanic video services in the trans-Pacific region, nearly 90 percent market share for the trans-Atlantic region, and over 50 percent market share for the Caribbean and Latin America regions. Comsat Study at 70.

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<sup>3/</sup> As one example, Comsat may be able to demonstrate that actual competition exists for the provision of switched voice and private line service between the United States and the United Kingdom, France, and Germany. In contrast, the provision by Comsat of facilities for IMTS and international private line (IPL) services to many other countries, particularly in regions not served by fiber optic cable, is still dominated by INTELSAT, and is not competitive. Likewise, the provision of wideband services, such as ITS, and point-to-multipoint services, is not competitive.

Despite Comsat's claims to the contrary, separate satellite systems do not provide effective competition for video service. At present, there is but one separate satellite system in operation -- PanAmSat, with its two PAS satellites -- and it offers only a limited number of transponders with a limited geographic scope of coverage. By contrast, INTELSAT, with tens of satellites, provides access to virtually all of the countries of the world. Moreover, for point-to-multipoint applications, an existing infrastructure of downlink facilities is required in order to provide service. At present, most international earth stations are designed to operate with, and are often locked onto, INTELSAT satellites.

Fiber optic service is not an economical or practical substitute for satellite service used to provide international video, videoconferencing, and television services. This is particularly the case with respect to point-to-multipoint service, where international satellites possess an overwhelming advantage over point-to-point undersea cables. Satellites offer end users far greater flexibility to distribute services to many different geographic locations, and at considerably less cost, than fiber optic cables can provide. Even Bruce Crockett, President of COMSAT Corporation, recognized this fact in recent congressional testimony, where he stated that, "[u]nlike fiber-optic cables, which are suited for point-to-point, high volume traffic routes, satellites are ideal for point-to-multipoint communications." Statement of Bruce L. Crockett, President and

Chief Executive Officer, COMSAT Corporation, before the Subcommittee on Telecommunications and Finance, U.S. House of Representatives, July 28, 1994, at 9-10. Thus, neither separate satellite systems nor undersea fiber optic cables offer competitive alternatives to Comsat's provision of international video and television services.

## 2. IBS and IMTS

Full competition is also lacking for IBS and IMTS to most countries. Comsat's study reveals that Comsat possesses a 50 percent market share for IMTS, and 70 percent market share for IBS, in the Caribbean and Latin America regions. Comsat also enjoys a 100 percent combined market share for IMTS and IBS services in what Comsat calls the "Rest of the" Atlantic Ocean, Pacific Ocean, and Latin America regions. See Comsat Study at 49, 52, 61, 63.

Separate satellite systems do not provide adequate competition for IBS or for IMTS to many countries. As noted above, separate satellite systems offer only a limited number of transponders with a limited scope of coverage for private line service. In addition, separate satellite systems currently are prohibited from providing IMTS service, except for an insignificant 1,250 circuits. Moreover, in the case of PanAmSat's PAS-1, almost all circuits are fully booked and cannot accommodate additional demand. Such operational limitations obviously do not allow for broad-based competition.

Fiber optic cables also are not a substitute for Comsat's international private line and switched telephone services. Those undersea fiber cables now in operation do not provide service to most countries of the world. As Comsat's own study indicates, only 66 nations are reachable by fiber optic cable. Comsat Study at 53. This leaves nearly 100 countries around the world without any immediate access to fiber optic cable. Comsat itself admits that there are "areas not easily accessible by cable -- such as Africa," as well as "Latin America and the remainder of the Atlantic and Pacific regions." Petition at 24, 28. For these so-called "thin route" countries (low-volume markets) located in Africa, South America, the Middle East, and elsewhere, fiber optic cables do not now, and will not in the foreseeable future, provide competition, let alone effective competition, to INTELSAT. The FCC made this determination in the International Competitive Carrier proceeding, concluding that "satellites would appear to be the cost effective medium for thin (low density) traffic paths." 102 F.C.C.2d at 838 n.63.

In addition, even where an undersea cable lands in a particular country, there often is no ubiquitous terrestrial service available to serve all the regions of that country. Thus, for example, Comsat may count Russia as being served by cable even though virtually all of Russia, outside of Moscow and St. Petersburg, relies on satellites for international communications. This reality significantly reduces from 66 the number of countries effectively served by fiber optic cables. Clearly

there is no effective competition on these routes, because the only way that service can be provided to this huge market of underserved countries is by means of INTELSAT.

**C. Comsat Has Not Addressed Well-Founded Concerns About The Significant Harm That Would Be Caused By Reducing The Tariff Filing Requirements Applicable To Its INTELSAT-Based Services**

Above and beyond Comsat's inability to demonstrate that actual and substantial competition exists for all its services, Comsat has not even addressed the likely substantial negative impact of its proposal to reduce the tariff filing requirements now applicable to all its INTELSAT services.

By reducing the notice period to only fourteen days, it would be far more difficult for carrier customers or end users to obtain, review, and analyze a copy of Comsat's proposed tariff transmittal, and then, if necessary, prepare and file a challenge to that transmittal. This process would be made all the more daunting if Comsat's tariffs also were granted a presumption of lawfulness, which would result in shifting the burden of proof from Comsat to the end user. Comsat's proposal, if adopted, will make it highly unlikely that any challenge to a Comsat tariff, however well-substantiated and meritorious, would have a significant chance of being upheld by the FCC.

IDB is particularly concerned that the "minimal cost showing" requested by Comsat will give end users even less chance of showing that rates are not cost-based and/or are the result of

cross-subsidization. For example, reducing the cost support requirements would make it easier for Comsat to shift costs from certain high volume services that face some competition, such as IMTS to Western Europe, to services which lack any real competition, such as International Television Service or thin-route IMTS service. Such cross-subsidization would have the effect of undercutting the profitability and growth of competitors in the more competitive markets, while at the same time forcing customers of monopoly services to pay prices in excess of the actual cost of providing service.

**III. CONCLUSION**

IDB Communications Group, Inc. is deeply concerned about the implications of Comsat's proposal that its tariffs should be subject to only fourteen days' notice, presumed lawful, and subject to minimal cost support. IDB submits that Comsat should not be granted relief except to the extent that Comsat can demonstrate that actual, substantial, and effective competition exists on a country-by-country, service-by-service basis.

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August 25, 1994

CERTIFICATE OF SERVICE

I, Susanne Deljoubar, do hereby certify that I have this 25th day of August, 1994, sent by first-class U.S. mail, postage prepaid, copies of the foregoing "Comments of IDB Communications Group, Inc." to the following:

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