

ORIGINAL

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

RECEIVED
MAY 12 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Market Entry and Regulation of) IB Docket No.
Foreign-Affiliated Entities) RM-8355
) RM-8392

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF
GE AMERICAN COMMUNICATIONS, INC.

GE American Communications, Inc. ("GE Americom") submits these brief reply comments with respect to the applicability of the rules proposed in the Notice of Proposed Rule Making in the above-captioned docket¹ to services provided to the United States by foreign satellites when home countries do not grant reciprocal rights to U.S. satellites.

GE Americom supports the comments of PanAmSat Corporation ("PanAmSat") and Columbia Communications Corporation ("Columbia") regarding the importance of promoting open markets for international satellite services. We agree that the Commission should not permit foreign satellite carriers to use non-U.S. satellites to provide international services from the United States unless U.S. satellite companies have effective market access to the home market of the carrier desiring entry into this country. We understand the Notice to propose such a narrow reciprocity requirement.

However, the Notice does not go far enough. As PanAmSat and

¹ Order FCC 95-53, 50 Fed. Reg. 11614 (Mar. 2, 1995) ("Notice").

No. of Copies rec'd 024
List A B C D E

Columbia indicate, U.S. interests in the satellite market would not be adequately protected through the Section 214 authorization process, especially if the reciprocal entry standard is limited to foreign satellite carriers alone. The Commission should use a broader set of tools to achieve its open market objectives and advance the ability of U.S. satellite carriers to serve foreign markets. In particular, the Commission should prohibit the use of non-U.S. satellites to provide service from or to the United States in situation where either: (a) the satellite operator's home market is closed to reciprocal entry by U.S. satellite carriers; or (b) the home market of the foreign service provider proposing to use the non-U.S. satellite is similarly closed.²

GE Americom supports the comments of PanAmSat and Columbia in this regard. Both urged the Commission, when it evaluates the applications for licensing foreign entities proposing to use non-U.S. satellites, to consider the extent to which U.S. satellites had effective market access to the home countries of those foreign satellites that would enable them to compete with the foreign satellites. As a provider of satellite services, GE Americom supports the comments of PanAmSat and Columbia.

GE Americom's concerns, however, also extend to the related

² GE Americom supports the Commission's proposed standards for evaluating the openness of a foreign market, including the goal that the market be open on a non-discriminatory basis. The grant of "landing rights" to one firm, to the exclusion of similar treatment to others, would not satisfy the Commission's reciprocity goals, nor would extending preferential "landing rights" to one carrier only.

question of whether foreign satellites should be allowed to provide non-common carrier services, such as video programming, to the United States, when their home countries deny effective market access to U.S. satellites on a reciprocal basis.

The Commission has authority to restrict licensed receive-only satellite antennas from receiving transmissions from such foreign satellites under Part 25.131(j) of its regulations. For the same reasons given by the Notice, the Commission should therefore use this authority to prohibit licensed antennas from receiving signals from a foreign satellite except upon a showing that the home country of such a satellite grants effective market access to U.S. satellites to downlink U.S.-based programming to licensed antennas in the other country.

Unlicensed receive-only earth stations are prohibited by Part 25.131(j) from receiving signals from foreign satellites.³ The Commission sought initially to revisit this prohibition, however, in Docket CC 93-23,⁴ the outcome of which is still pending. GE Americom requests that, if the Commission modifies Part 25.131(j) to permit such unlicensed antennas to receive signals from foreign satellites, it should make such permission

³ Unlicensed receive-only antennas are permitted, pursuant to a waiver of the Commission's rules, to receive services from INTELSAT-K. Communications Satellite Corporation, 7 FCC Rcd 6028 (Comm.Car.Bur. 1992), app. for review pending.

⁴ Notice of Proposed Rulemaking, Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations, 8 FCC Rcd 1720 (1993).

contingent, in the case of each foreign satellite, on whether U.S. satellites are granted effective market access to unlicensed antennas in that satellite's home country or the country where such non-common carrier services are uplinked.

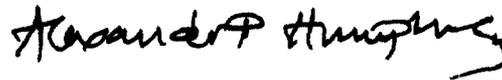
The questions presented by use of non-U.S. satellites for international service are directly related to the question of whether or when it might be appropriate to permit use of such satellites for domestic service within the United States. This issue has been raised in a preliminary fashion in the Commission's current rulemaking proposing to consider elimination of distinctions between U.S. domsats and separate international system satellites.⁵ GE Americom will address this issue further there. As a general matter, however, we suggest that resolution of all questions concerning use of non-U.S. satellites (including COMSAT's use of INTELSAT) for any service to, from or within the United States might best be resolved in a single proceeding, perhaps in coordination with a review of INTELSAT policies that also affect the ability of the U.S. satellite industry to compete. Prior to completion of such a comprehensive review, the Commission should take care not to give a competitive advantage to non-U.S. satellites through premature entry into the

⁵ Notice of Proposed Rulemaking, Amendment to the Commissions's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, Order FCC 95-46 60 Fed. Reg. 24817 (may 10, 1995). In the Notice, the Commission said: "We invite comment . . . on whether, and under what conditions, non-U.S. satellites should be permitted to serve the U.S. domestic market". Ibid. at ¶ 39.

U.S. international or domestic market.

For present purposes, GE Americom requests that the Commission at least ensure that any action it may take here will promote more open markets for U.S. satellite carriers providing international services. The Commission should recognize that the section 214 process alone is not sufficient to that purpose and use every other regulatory tool to foster reciprocal market opportunities.

Respectfully submitted,



Philip V. Otero
Alexander P. Humphrey
GE AMERICAN COMMUNICATIONS, INC.
1750 Old Meadow Road
McLean, VA 22102

May 12, 1995

CERTIFICATE OF SERVICE

I, Wanda M. Latta, hereby certify that on this 12th day of May 1995, copies of the foregoing Reply Comments of GE American Communications, Inc., in the Matter of Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95-22, have been served by First Class United States mail, postage prepaid on all parties of record.



Wanda M. Latta