

ORIGINAL

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September 8, 1999

Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Filing
Direct Access to the INTELSAT System
IB Docket No. 98-122, File No. 60-SAT-ISP-92

Dear Ms. Salas:

The Satellite Users Coalition (AT&T Corp., MCI WorldCom, Inc., and Sprint Communications Company LP) respectfully request that the Commission implement space segment portability so as to maximize the public interest benefits of direct access.

Space segment portability is needed for two reasons. **First**, COMSAT has used its *de facto* monopoly access to INTELSAT to tie up most of the Intelsat space segment capacity used by U.S. carriers and end-users ("US Capacity") in long term leases – typically rolling 15 year leases. INTELSAT reports that globally 66 percent of its analog services, and 89 percent of its digital services, were subject to long-term commitments. More than 60 percent of these long-term commitments were for fifteen-year terms.¹ The Satellite Users Coalition believes that COMSAT has tied up even a higher percentage of U.S. Capacity in long term leases.

COMSAT has used these long term leases as "direct access insurance." If the FCC were to implement direct access, COMSAT would continue to enjoy monopoly rents on INTELSAT space segment because it controls most of the US Capacity. As Salomon Smith Barney explained when commenting on the potential impact of direct access:

most importantly, COMSAT has a capacity contract with Intelsat, which gives the company ownership of the vast

¹ *INTELSAT 1998 Annual Report*, note 10 to Financial Statements, available at <http://www.intelsat.com/about/annrept/98/note10.htm>.

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majority of capacity connecting with the U.S. In effect, others can play ball under direct access, but COMSAT owns the equipment.²

Second, space segment portability will often be necessary even where capacity available on another INTELSAT satellite. In most cases, US carriers must use the specific satellite and transponder designated by their foreign correspondent. Typically, the foreign correspondent has only a few international satellite earth stations. These facilities are used to communicate with numerous countries. Thus, a small nation in Africa would typically have one satellite earth station communicating with one satellite over the Atlantic Ocean. All U.S. carriers and European carriers would need to use that particular satellite in order to communicate with that correspondent. In most cases, that particular satellite (or orbital location) has been used for many years for such communications. The foreign correspondent has no incentive to move to another satellite for communications only with US carriers. That correspondent is almost surely an Intelsat signatory, and thus, obtains its space segment at the Intelsat Utilization Charge ("IUC") already. Further, and very significantly, that correspondent lacks the incentive, and the resources, to build an expensive new satellite earth station facility to communicate only with US carriers.

Since COMSAT used its *de facto* monopoly access to INTELSAT to lock-up U.S. Capacity, the Commission should provide that when a user's existing contract with COMSAT for space segment expires, the user should have the opportunity to renew its access to INTELSAT, through COMSAT, by paying COMSAT the IUC, plus a network management fee ("NMF"). The NMF would cover COMSAT's costs for circuit orders, change orders and billing and collection.

The user and COMSAT would negotiate the NMF for 90 days following the effective date of direct access. If there were no agreement within 90 days, the Commission would determine the amount of the NMF, retroactive to the effective date of direct access.

This space segment portability:

- Would significantly increase the US consumer benefits of direct access by requiring US Capacity, acquired through COMSAT's monopoly access to INTELSAT, to be made available on an equitable basis;

² *COMSAT Corp.*, Salomon Smith Barney, October 1998, at 16.

- Would be limited only to renewal of expiring commitments for US Capacity that users have under current contracts or tariffs with COMSAT;
- Would provide an important transition mechanism for carriers unable to take full advantage of direct access due to the limited amount of uncommitted INTELSAT capacity available and the difficulties of using that capacity with foreign correspondents;
- Would allow COMSAT to maintain most of its current INTELSAT revenues; and
- Would allow COMSAT to recover its costs for providing ordering, billing and collection services.

The following text would implement this space segment portability proposal:

Beginning on the date of enactment, any User or provider shall have the right, at its discretion, to extend or renew access to the same INTELSAT space segment capacity through COMSAT at the INTELSAT Utilization Charge, plus a Network Management Fee to compensate COMSAT for the expenses it appropriately incurs relating to circuit orders, circuit change orders, and billing and collection. The User and COMSAT shall negotiate the Network Management Fee. If the User and COMSAT are unable to agree upon a network management fee within ninety (90) days of the date of enactment, then either party may request that the Commission determine the appropriate Network Management Fee within one hundred twenty (120) days from the date of the request. The Network Management Fee as agreed to by the parties or as determined by the Commission shall be retroactive to the date of renewal of the space segment capacity.

Space segment portability is essential to insuring that there will be maximum consumer benefits from direct access starting on the implementation date. The balanced proposal

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outlined above provides equitable access to U.S. INTELSAT capacity, while maintaining a role for COMSAT in the delivery of INTELSAT services.

Sincerely,

Satellite Users Coalition

AT&T Corp.
MCI WorldCom, Inc.
Sprint Communications Company, LP

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