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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

March 17, 2000

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

Re: IB Docket No. 98-192  
Direct Access to the INTELSAT System

Dear Ms. Salas:

COMSAT Corporation ("COMSAT") hereby responds to the letter dated February 24, 2000 from MCI WorldCom, Inc. ("MCI WorldCom") regarding COMSAT's alleged interference with the implementation of Level 3 direct access in the United States. *See Direct Access to the INTELSAT System*, FCC 99-236, IB Docket No. 98-192 (rel. Sept. 16, 1999) ("*Direct Access Order*"). Despite MCI WorldCom's repeated use of inflammatory language, the facts simply do not support its claims. As demonstrated below, MCI WorldCom's stated frustration with direct access has nothing to do with COMSAT. Rather, it arises from the current shortage of capacity on the INTELSAT system relative to the specific frequency requests made by MCI WorldCom. Accordingly, the "instructions" sought by MCI WorldCom are not necessary.

At the outset, many of the matters discussed in MCI WorldCom's letter were resolved before the letter was submitted, and it is not clear why MCI WorldCom would write the Commission yet again about those issues. COMSAT respectfully submits, for example, that it is irresponsible for MCI WorldCom to claim that COMSAT was being "anti-competitive" in raising a legitimate question as to whether MCI WorldCom's ownership of the Signatory of Brazil fell within the foreign-Signatory limitations in the *Direct Access Order*. Letter at 1. The Commission itself subsequently had to clarify the applicability of this restriction to numerous foreign Signatories with affiliated U.S. companies. Moreover, when the Commission did so, COMSAT immediately forwarded to INTELSAT the MCI WorldCom circuit orders for Brazil. Thus, there is no basis for MCI WorldCom's assertion that COMSAT has engaged in "flagrant violations" of the *Order*.

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In a similar fashion, MCI WorldCom claims that the issues discussed in its letter do not relate to so-called "portability" of INTELSAT capacity. Letter at 1 n.2. In fact, the purported problems identified by MCI WorldCom arise solely from its efforts to obtain *de facto* portability. Reduced to its essentials, MCI WorldCom's complaint is that COMSAT will not step aside and allow MCI WorldCom to occupy, as a direct access customer, capacity that COMSAT has previously acquired under contract with INTELSAT and can sell to other customers.

In authorizing Level 3 direct access, the FCC made clear that COMSAT "would still retain space segment capacity that it acquires from INTELSAT and the *right to sell all of this capacity to other carriers and users.*" *Direct Access Order*, ¶ 199 (emphasis added). Thus, while new, unsold and unreserved capacity is available for direct access customers, capacity previously acquired by COMSAT and used to serve its customers is not. As the FCC explained, Level 3 direct access "is intended as a forward-looking policy that permits U.S. carriers *additional choice in future decisions* on obtaining INTELSAT space segment capacity." *Id.* (emphasis added).

The Commission also made clear that the so-called "portability" issue would only arise if "*non-COMSAT-owned* space segment capacity proved to be unavailable to carriers," and even then only if: (1) there is evidence that COMSAT "is using its Signatory status to buy future or additional capacity without any U.S. customer requirements," and (2) efforts fail to "first pursue commercial solutions with COMSAT to resolve the matter." *Id.* ¶ 128 (emphasis added). None of these circumstances exists here. What has emerged, however, is a concerted effort by MCI WorldCom to appropriate COMSAT's existing capacity for itself, while preventing COMSAT from exercising its right to sell that capacity to other carriers and users.

As shown in the attached sample e-mails (see Attachment 1), the MCI WorldCom scheme works as follows. First, MCI WorldCom notifies COMSAT that its commitment for a group of half-circuits is about to expire, and submits written instructions to COMSAT *to disconnect* those half-circuits on a particular date. At the same time, MCI WorldCom instructs the foreign administration *not to disconnect* the half-circuits at the foreign end (that is, to maintain the "same frequency assignment"), and also includes a separate instruction -- in bold typeface so it will not be missed -- that the cancellation notice to COMSAT is only an "administrative paperwork change" in connection with U.S. direct access. In other words, MCI WorldCom is signaling to the foreign administration that it is not actually discontinuing use of the U.S. half-circuits (this being only a paperwork exercise), and that, therefore, the foreign administration should not match with any other customer COMSAT may have waiting for these circuits.

To ensure this result, MCI WorldCom then keeps the carrier frequencies occupied on the U.S. end (meaning that MCI WorldCom continues to radiate into the satellite transponders for the same U.S. half-circuits) while submitting direct access requests to INTELSAT. In several cases, these transmissions have continued past the cancellation date that MCI WorldCom has submitted in writing to COMSAT -- thus preventing COMSAT from selling those circuits to other potential buyers who, significantly, are competitors of MCI WorldCom.

The only reason this *de facto* portability scheme has failed is that INTELSAT, quite properly, will not reassign frequencies owned and occupied by COMSAT without COMSAT's consent, as MCI WorldCom's activation orders request. COMSAT has no objection if MCI WorldCom wishes to disconnect the half-circuits it obtains from COMSAT and reconnect them on other available capacity as a direct access customer. However, COMSAT will not agree to vacate capacity it still owns simply to suit MCI WorldCom's convenience. Circuits on INTELSAT satellites are not fungible from a marketing or customer perspective, and MCI WorldCom should not be able to take advantage of the expense and effort incurred by COMSAT to establish U.S.-overseas connectivities that are attractive to other U.S. carriers and users. Moreover, the recently passed ORBIT Act makes clear that COMSAT's capacity contracts with INTELSAT cannot be abrogated, as MCI WorldCom is proposing.

In its letter, MCI WorldCom attempts to obscure these facts by focusing, not on the U.S. half-circuit, but on the foreign half-circuit. It notes first that "the process of ordering new capacity from INTELSAT generally requires that a foreign carrier match a half circuit capacity order placed by a U.S. carrier." It next states that foreign carriers are often "unwilling" to provide this match in connection with the transfer of circuits from COMSAT to MCI WorldCom, and then asserts that, "[r]ecognizing this problem, INTELSAT helpfully proposed to treat the transfer of the foreign half-circuit as a frequency change" but "subsequently withdrew its proposal in response to pressure from COMSAT." Letter at 2.

In fact, the proposal referenced by MCI WorldCom was made by an INTELSAT staff member without the approval of INTELSAT Management, and was withdrawn because it was inconsistent with INTELSAT's rules and practices. These standard operating procedures (including lineups and other testing) are intended to protect the technical integrity of the system as well as to ensure accurate record keeping and billing. If foreign administrations want to assist MCI WorldCom in relocating its traffic by providing the appropriate matches, they are free to do so. However, if they do not want to provide such assistance, MCI WorldCom cannot place the blame on COMSAT. COMSAT has no involvement with foreign half-circuits; its only interest is in retaining the use of the U.S. half-circuits that it bought, paid for, and uses to serve its customers.

The MCI WorldCom letter also objects to the fact that COMSAT has insisted on collecting the direct access surcharge itself, rather than have INTELSAT collect it. Letter at 2. At the same time, MCI WorldCom acknowledges that the *Direct Access Order* specified that COMSAT file a tariff with the FCC to collect the surcharge. *Id.* COMSAT is therefore entitled to take appropriate measures, subject to FCC approval, to ensure that it receives these funds as rapidly as possible, and to direct INTELSAT to discontinue service if the surcharge is not paid. *Direct Access Order*, ¶ 89. That is precisely what COMSAT has done. Accordingly, MCI WorldCom's claim that COMSAT is "insert[ing] itself needlessly into the direct access process" is without merit.

Finally, COMSAT wishes to place this entire matter into perspective. At last count, the U.S. entities that had perfected and exercised their right to place orders directly with INTELSAT had, in large part, been successful in obtaining the capacity they requested. The situation that MCI WorldCom is encountering is largely one of its own making: it is seeking to obtain capacity

that it knows is unlikely to be available, so as to create the perception of a direct access "problem" requiring a portability "solution." As shown herein, however, the preconditions for such action that were established in the *Direct Access Order* simply do not exist, and try as it might, MCI WorldCom cannot alter these realities. At bottom, all that MCI WorldCom is really confronting is a general capacity shortage on the INTELSAT system that is being driven by ever-increasing demands to accommodate the explosive growth of Internet traffic. INTELSAT already has decided to procure additional satellites to address this temporary shortage, and MCI WorldCom will have ample opportunity for direct access to this future capacity. Moreover, other global satellite systems and other carriers are rapidly adding international transport capacity as well. In short, there is simply no basis for the regulatory intervention that MCI WorldCom has requested.

Respectfully submitted,



Howard D. Polsky

cc: Donald Abelson (International Bureau)  
James Ball (International Bureau)  
Douglas Webbink (International Bureau)  
Michael McCoin (International Bureau)  
Cathy Hsu (International Bureau)  
Robert S. Koppel (MCI WorldCom)

**ATTACHMENT**

Author: Kim Baumgartner at CQPO4  
Date: 1/11/00 4:53 PM  
Priority: Normal  
TO: Joyce Wheeler at CIGGIS  
Subject: Request to deactivate Full-time Digital IBS Service USA/Soma

----- Forwarded -----

Author: Andy.Vu@wcom.com at INTERNET 1/11/00 2:20 PM  
TO: IBS-LIST@comsat.com at INTERNET  
CC: Chris.Keenan@wcom.com at INTERNET  
CC: Charlie.Hoff@wcom.com at INTERNET  
CC: ANE-MUX@wcom.com at INTERNET  
CC: Jessica.Williams@wcom.com at INTERNET  
CC: Rick.Graham@wcom.com at INTERNET  
CC: George.Clutter@wcom.com at INTERNET  
CC: J.Few@wcom.com at INTERNET  
CC: Michael.Dancer@wcom.com at INTERNET  
CC: Tricia.Greenwood@wcom.com at INTERNET  
CC: Lenore.Lott@wcom.com at INTERNET  
CC: Dawn.Hartzog@wcom.com at INTERNET  
CC: Jenny.Segesta@wcom.com at INTERNET  
Subject: Request to deactivate Full-time Digital IBS Service USA/Soma ←

Ammended to change items A  
REF: 67L3-75548

I hereby request space segment capacity be allocated for the service detailed below:

A. Transaction: Deactivation  
B. Service Date:  
C. Requested SSOG Test Date:  
D. End of Service Date: 17 Jan 2000  
E. Contract Term: 1 Year  
F. Type of IBS: Duplex  
G. Application: N/A  
H. Configured Carrier Size: 64K  
I. Information (data) Rate: 64K  
J. Transmission Rate: 136.576 KBPS  
K. Forward Error Correction: 1/2  
L. Overhead (%): 6.7  
M. Orbital Location: 359.0 degree  
N. US Transmit Earth Station: AND-02A  
O. Foreign Earth Station: BTT-01F1 (Somalia)  
P. ITU-T (CCITT) Designation: BELETN-NYKMCI 64K001  
Q. Overseas Administration: NATIONLINK SOMALIA  
R. Special Notes:  
S. Existing Service Order:

On behalf of Jennifer Few, Ops Rep.

MCI WORLDCOM  
Global Data Engineering  
International Data Networks  
Andy.Vu@wcom.com  
phone (972)729-2750  
fax (972) 729-2756

