April 23, 2001

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

Re: Availability of INTELSAT Space Segment Capacity to Users and Service Providers Seeking to Access INTELSAT Directly (IB Docket No. 00-91)

Dear Ms. Salas:

British Telecommunications plc ("BT") wants to take this opportunity to address the Report submitted on March 13, 2001 by COMSAT Corporation ("COMSAT") with regard to the status of commercial negotiations with direct access customers.[1] BT believes that the Commission should base any decisions on a full and complete record, and the Report's description of the negotiations between BT and COMSAT omits some important facts. In addition, BT believes that events which occurred subsequent to the submission of that Report are also relevant to possible Commission action in this proceeding. Following is a more complete chronology of the events that have transpired (or not transpired, as discussed below).

Consistent with the Commission's September 19, 2000 Order, BT wrote to COMSAT's parent, Lockheed Martin Global Telecommunications ("LMGT" or "Lockheed Martin"), on 22 November 2000 to explain BT's position, and request a meeting to open up discussions and negotiate a commercially acceptable agreement. Although COMSAT claims that they sent a response in early December, no reply was actually received by BT until January 2001.

In December 2000 Jenny Gallagher, a BT attorney, informally met with Larry Paul and Paul Kollmer-Dorsey of Lockheed Martin at the Intelsat DSDG8 meeting, and briefly discussed the content of BT's November 22, 2000 letter. Ms. Gallagher told Larry Paul that no response had been received from LMGT. Larry Paul agreed to follow-up on his return to the office. Ms. Gallagher did not directly hear back from him or Lockheed Martin on this matter.

In January 2001 John Roldan, LMGT, faxed a copy of a response dated 6 December 2000 to BT's letter of 22 November 2000. This was the first time BT had seen or heard of a response. The very brief letter stated Lockheed Martin's

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[1] *Public Notice*, Report No. SPB-166, released April 6, 2001.

willingness to discuss the matter and requested further details on the leases to which BT referred.

In addition to working through these sales and marketing channels (which were not eliciting progress), in light of the regulatory aspects of this issue and in an effort to spur discussions, Ms. Gallagher contacted Gerald Mussara of LMGT on February 21st by telephone in an attempt to expedite resolution of this matter. Mr. Mussara responded the next day with an email providing contact details for Tom Collins, the person at Lockheed Martin who was identified as the lead for such negotiations.

Ms. Gallagher promptly followed up and called Mr. Collins, leaving messages on several occasions. Robert Twining called Ms. Gallagher on 6 March 2001. He left a message indicating that Mr. Collins was in Ecuador for the week and had tried to call but could not get connected. Mr. Twining also asked Ms. Gallagher to return his call.

Ms. Gallagher called Mr. Twining, discussed the issue and both agreed to set up a meeting to discuss and negotiate an acceptable commercial proposal. Ms. Gallagher does not recall being asked for a list of leases during this preliminary conversation (although at the subsequent meeting LMGT insisted that identification of the leases at issue was a precondition to any substantive discussions).

A meeting was arranged for 30 March 2001. Malcolm Campbell and Jenny Gallagher of BT would fly over from London, and, with their colleague, Bill McNamara from BT North America Inc.'s Broadcast Services division, would meet with Keith Fagan, Robert Twining and Tom Collins of LMGT.

BT received a copy of the 13 March 2001 letter that LMGT filed with the FCC in IB Docket No. 00-91 in late March 2001 and was surprised by Lockheed Martin's perception that LMGT was making good faith efforts to respond to BT, because BT's impression was that LMGT was doing little to respond promptly or facilitate such a meeting (with the exception of Mr. Musarra).

BT attended the meeting on 30 March 2001 at the Maryland headquarters of Lockheed Martin. The meeting was brief. BT put forward its proposal that BT should not have had to pay a mark up of, in some cases, twenty to thirty percent on Intelsat capacity provided by LMGT, because the Commission had granted direct access to BT North America Inc. and other operators. Lockheed Martin responded that it needed a list of the leases at issue before LMGT could consider BT's request.

Lockheed Martin also stated that its position was that BT had entered into valid legal contracts with COMSAT for the capacity and that BT was under contractual obligations to pay COMSAT unless and until the parties agreed to negotiate other terms. BT does not necessarily agree with LMGT's analysis of this relationship between COMSAT and BT.

BT also disagrees with LMGT's characterisations of the events that have occurred as well as its conclusion that its actions, at least in BT's case, demonstrate that "COMSAT pursued the required negotiations with each of the parties diligently and in good faith" (LMGT March 13, 2001 Report at p. 1). Lockheed Martin informed BT it had requested a list of the leases at issue on "numerous occasions," although none of the BT delegates could recall being asked for this information except in the 6 December 2000 letter that BT received in late January 2001 and then at the March 30, 2001 meeting. Ms. Gallagher pointed out that LMGT had represented to the Commission that LMGT was prepared to offer BT several possible commercial solutions.[2] Lockheed Martin asked for time to come up with a proposal, and BT agreed to allow LMGT time to do this. BT also provided Lockheed Martin with a list of the matched leases at issue at the meeting. LMGT sent BT a proposal dated April 5, 2001, to which BT will respond.

While BT remains hopeful that commercial negotiations can result in a prompt resolution of this situation, the record to date does not support the LMGT Report's claim that COMSAT has "unquestionably exercised good faith in compliance with the Commission's *Capacity Order*." (LMGT March 13, 2001 Report at p. 8). BT thus urges the Commission to deny COMSAT's request that this proceeding be terminated. The Commission should continue to monitor this situation, so that it can take appropriate action in case prompt resolution of this matter is not forthcoming.

Respectfully submitted,

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[2] "In fact, COMSAT is prepared to offer BT several possible commercial solutions." LMGT letter to Magalie Roman Salas, Secretary, Federal Communications Commission, dated 13 March 2001, IB Docket No. 00-91 at page 6.