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June 1, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Re: *Notice of Ex Parte Presentation, MD Docket No. 01-76, Assessment of Regulatory Fees for Fiscal Year 2001, Notice of Proposed Rulemaking*

Dear Ms. Salas:

By its undersigned attorney, COMSAT Corporation ("COMSAT" or "the company") hereby submits the following written *ex parte* presentation in the above-referenced proceeding. COMSAT objects to the Commission's proposal, as set forth in above-referenced *Notice of Proposed Rulemaking* ("NPRM"), to impose space station regulatory fees on INTELSAT satellites that are not regulated by the agency. See NPRM, at Attachment A ¶ 22, Attachment F ¶ 36 (including 19 INTELSAT satellites in its tally of 66 operational geostationary satellite space stations purportedly "authorized to provide service" by the FCC).

COMSAT is currently challenging in the Court of Appeals for the District of Columbia Circuit the Commission's effort in its *Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, 15 F.C.C. Rcd 14478, 65 Fed. Reg. 44576 (2000) ("FY 2000 Order"), to impose space station regulatory fees on the basis of the INTELSAT satellites. The company believes that the challenged fee imposed in the *FY 2000 Order* will be invalidated for the reasons stated in its Initial Brief in support of COMSAT's Petition for Review of the *FY 2000 Order*, filed May 29, 2001, a copy of which is attached hereto. A ruling by the Court invalidating the *FY 2000 Order*'s assessment of space station regulatory fees on the basis of the INTELSAT satellites would preclude the Commission from imposing such fees in Fiscal Year 2001 as well. This would reduce the number of space stations upon which the proposed fee is based.

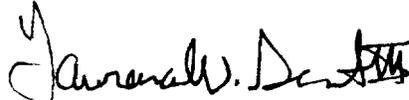
In any event, the Commission should not attempt to collect the regulatory fees assessed based on INTELSAT satellites in Fiscal Year 2001 until the Court of Appeals for the District of Columbia Circuit rules on COMSAT's pending Petition for Review of the Commission's *FY 2000 Order*.

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Please date-stamp the attached duplicate marked "Stamp and Return" upon receipt and return it via messenger for our records. If any questions arise concerning this matter, kindly contact the undersigned.

Sincerely,


Lawrence W. Secrest, III

Enclosure

cc: Peter A. Tenhula, Senior Legal Advisor to Chairman Powell
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Bryan Tramont, Senior Legal Advisor to Commissioner Furchtgott-Roth
Adam Krinsky, Senior Legal Advisor to Commissioner Tristani
Terry D. Johnson, Office of the Managing Director

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORAL ARGUMENT SCHEDULED FOR OCTOBER 16, 2001
No. 00-1458

**BEFORE THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

COMSAT CORPORATION, Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA, Respondents,

and

PANAMSAT CORPORATION, Intervenor

**ON PETITION FOR REVIEW OF A FINAL RULEMAKING ORDER
OF THE FEDERAL COMMUNICATIONS COMMISSION**

INITIAL BRIEF FOR THE PETITIONER

Howard D. Polsky
Robert A. Mansbach

Lawrence W. Secrest, III
William B. Baker
Daniel E. Troy

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May 29, 2001

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

The undersigned attorneys of record, in accordance with D.C. Circuit Rule 28(a)(1), hereby certify:

A. Parties and *Amici*

In the present proceeding, petitioner COMSAT Corporation (“COMSAT”) seeks review of a rulemaking order issued by respondent Federal Communications Commission (“FCC” or “Commission”). A large number of parties participated in the proceedings before the FCC in addition to COMSAT. These parties include: American Mobile Telecommunications Association, Inc.; BellSouth Corporation; Cellular Telecommunications Industry Association; Council of Independent Communications Suppliers and the USMSS, Inc.; GE American Communications, Inc.; Lockheed Martin Global Telecommunications, LLC; Motorola Pacific Communications, Inc.; Motorola Satellite Communications, Inc.; National Association of Broadcasters; PanAmSat Corporation; Space Imaging, LLC; Space System License, Inc.; and, Sunbelt Communications Company and its wholly owned subsidiary, Ruby Mountain Broadcasting Company.

On August 21, 2000, before this case was transferred to this Court, the United States Court of Appeals for the Fourth Circuit granted leave to intervene in the present proceeding to PanAmSat Corporation (on behalf of Respondents FCC

and United States of America). *See* Order, *COMSAT Corp. v. FCC*, No. 00-1920 (4th Cir. Oct. 24, 2000). No persons have informed COMSAT of any intention to participate as *amici curiae* in the present proceeding.

B. Rulings Under Review

The ruling under review is an Order of the Federal Communications Commission styled *Assessment and Collection of Regulatory Fees for Fiscal Year 2000. Report and Order*, 15 F.C.C. Rcd 14478, 65 Fed. Reg. 44576 (2000) (“*FY 2000 Order*”) (J.A. ____).¹ A notice summarizing the *FY 2000 Order* was published in the Federal Register at 65 Fed. Reg. 42697 (July 11, 2000). The Notice of Proposed Rulemaking that resulted in issuance of the *FY 2000 Order* was published at 15 F.C.C. Rcd 6533 (2000) (J.A. ____).

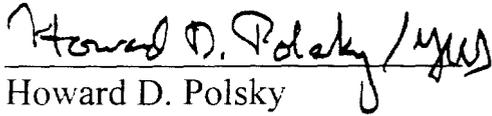
C. Related Cases

The present petition for review was originally filed in the United States Court of Appeals for the Fourth Circuit. *See* Petition for Review, *COMSAT Corp. v. FCC*, No. 00-1920 (4th Cir. filed July 14, 2000). However, the Fourth Circuit granted the FCC’s motion to transfer proceedings on COMSAT’s petition to this

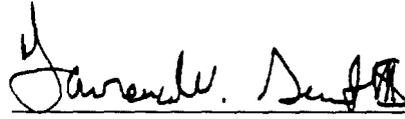
¹ The parties will file a deferred Joint Appendix on or before August 3, 2001.

Court before any briefing or argument on the merits had yet occurred. *See Order, COMSAT Corp. v. FCC*, No. 00-1920 (4th Cir. Oct. 24, 2000).

Respectfully submitted,



Howard D. Polsky
Robert A. Mansbach



Lawrence W. Secrest, III
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Its Attorneys

May 29, 2001

CORPORATE DISCLOSURE STATEMENT

COMSAT Corporation (“COMSAT”) files this Corporate Disclosure Statement pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1. COMSAT is a privately held corporation incorporated in Washington, D.C., with its principal place of business in Bethesda, Maryland. COMSAT, through its affiliates and subsidiaries, provides satellite-based telecommunications, broadcast and digital networking services between the United States and other nations via the International Telecommunications Satellite Organization (“INTELSAT”) system; offers satellite-based maritime, aeronautical, and land-mobile communications services; and develops advanced satellite communications technologies and wireless networking products for commercial and government customers worldwide. Its customers include U.S. international communications common carriers, teleports, private network providers, multinational corporations, U.S. and international broadcasters, news-gathering organizations, digital audio companies, and the U.S. government.

COMSAT is wholly owned by Lockheed Martin Global Telecommunications, LLC (“LMGT”), which is a privately held limited liability company organized in Delaware, with its principal place of business in Bethesda, Maryland. LMGT provides global network services and advanced technology

solutions to enterprise customers. LMGT offers solutions in three core capabilities: its Enterprise Solutions unit provides application development services, distributed computing solutions, project management assessment services, and application test services; its Satellite Systems unit provides Internet, data, video, and voice communications services between the United States and the rest of the world primarily via the INTELSAT global satellite network; and its Systems and Technology unit offers commercial customers leading-edge network infrastructure hardware, software, design, development and integration, end-to-end system testing, and project management solutions. LMGT and COMSAT together have about 3,500 employees.

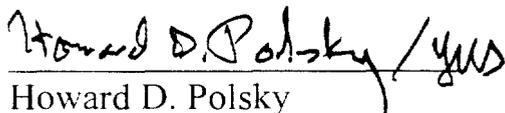
LMGT is wholly owned by Lockheed Martin Corporation, which is a publicly held corporation incorporated in Maryland, with its principal place of business in Bethesda, Maryland. Lockheed Martin Corporation's stock is publicly traded on the New York Stock Exchange (Symbol: LMT). Lockheed Martin Corporation is a highly diversified global enterprise that principally researches, designs, develops, manufactures, and integrates advanced technology products and services. It has more than 170,000 employees in the United States.

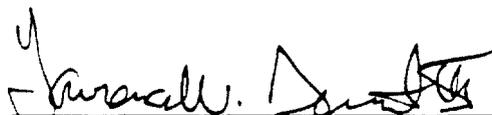
Both State Street Bank & Trust Company and U.S. Trust Company own more than 10 percent of Lockheed Martin Corporation. State Street Bank & Trust

Company is a privately held corporation incorporated in Massachusetts, with its principal place of business in Boston, Massachusetts. Its ultimate parent company is State Street Corporation, a publicly held corporation incorporated in Massachusetts, with its principal place of business in Boston, Massachusetts. U.S. Bank Trust Company National Association is a privately held association, with its principal place of business in Portland, Oregon. Its ultimate parent is U.S. Bancorp, a publicly held corporation incorporated in Delaware, with its principal place of business in Minneapolis, Minnesota.

WHEREFORE, COMSAT respectfully files this Corporate Disclosure Statement.

Respectfully submitted,


Howard D. Polsky
Robert A. Mansbach


Lawrence W. Secrest, III
William B. Baker
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Dated: May 29, 2001

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*Authorities upon which we chiefly rely are marked with asterisks.

GLOSSARY

Communications Act	The Communications Act of 1934.
COMSAT	Communications Satellite Corporation, created pursuant to the Communications Satellite Act of 1962 to facilitate the development and operation of the world's first global satellite communications system. Until the imminent privatization of INTELSAT is complete, COMSAT will continue to be the U.S. Signatory to INTELSAT.
DBS	Direct Broadcast Satellite, regulated pursuant to the Commission's rules set forth in 47 C.F.R. Part 100.
Direct Access Customer	A United States entity authorized by the FCC, pursuant to the ORBIT Act and the relevant Commission Orders, to lease INTELSAT satellite capacity from the INTELSAT treaty organization. More than 90 U.S. entities are authorized direct access customers.
Earth Station	A complex of communication equipment located on the earth's surface, operationally connected with one or more terrestrial communication systems, and capable of transmitting telecommunications to or receiving telecommunications from a communications satellite system.
FCC (also the "Commission")	The Federal Communications Commission.

INTELSAT	The International Telecommunications Satellite Organization, which was created pursuant to various international agreements. INTELSAT is a 143-member international treaty organization that owns and operates an international fleet of satellites, some of which serve the United States.
INTELSAT Agreement	Agreement Relating to the International Telecommunications Satellite Organization “INTELSAT,” which establishes INTELSAT.
INTELSAT Board of Governors	One of the governing bodies of INTELSAT, consisting of representatives of Signatories who have weighted voting based on investment share. It is responsible for the design, development, construction, establishment, operation, and maintenance of the INTELSAT space segment, and manages INTELSAT.
INTELSAT Operating Agreement	Operating Agreement Relating to the International Telecommunications Satellite Organization “INTELSAT,” which sets forth rights and obligations of INTELSAT Signatories.
LMGT	Lockheed Martin Global Telecommunications, LLC, the sole parent of COMSAT. LMGT is wholly owned by Lockheed Martin Corporation.
ORBIT Act	Open-Market Reorganization for the Betterment of International Telecommunications Act, enacted on March 17, 2000, mandates the elimination of COMSAT’s unique role as U.S. Signatory to INTELSAT and establishes procedures to privatize INTELSAT.
Satellite Act	The Communications Satellite Act of 1962.

Section 8	Section 8 of the Communications Satellite Act of 1962, 47 U.S.C. § 158, authorizes the FCC to impose certain application fees on entities that apply for licenses and authorizations from the Commission. Section 8 is intended to allow the FCC to recover the costs it incurs in approving those applications.
Section 9	Section 9 of the Communications Satellite Act of 1962, 47 U.S.C. § 159, authorizes the FCC to impose certain fees on regulated entities for the purpose of recovering costs that the FCC incurs in regulating those entities.
Signatory	The entities authorized to participate in the financing and governance of INTELSAT on behalf the member nations of INTELSAT. Each member nation has only one Signatory. This term is defined in Article I(g) of <i>Agreement Relating to the International Telecommunications Satellite Organization "INTELSAT,"</i> Art I(g), done Aug. 20, 1971, 23 U.S.T. 3813, 3816. When privatization of INTELSAT is complete, the Signatory role will cease to exist.
Transponder	The term for radio facilities used by communications satellites such as INTELSAT.
WTO Agreement	GBT World Trade Organization Agreement on Basic Telecommunications.

STATEMENT OF JURISDICTION

COMSAT Corporation (“COMSAT”) seeks review of Paragraphs 16-27, Paragraphs 48-50, and Attachment A Paragraph 29, of a final Order of the Federal Communications Commission (“FCC” or “Commission”) styled *Assessment and Collection of Regulatory Fees for Fiscal Year 2000, Report and Order*, 15 F.C.C. Rcd 14478 (2000) (“*FY 2000 Order*”) (J.A. ____). The *FY 2000 Order* became final on July 11, 2000, when notice of its release was published in the Federal Register. See 65 Fed. Reg. 42697 (2000). The Commission asserted jurisdiction to enter the *Order* under Sections 9(f) and (g) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 159(f), (g), and under 5 U.S.C. § 553. Jurisdiction in this Court is proper under 47 U.S.C. § 402(a) and 28 U.S.C. § 2342(1).

COMSAT’s petition for review was timely filed in the United States Court of Appeals for the Fourth Circuit on July 14, 2000, which falls within the 60-day period specified in 28 U.S.C. § 2344. On August 21, 2000, the United States Court of Appeals for the Fourth Circuit granted leave for intervenor PanAmSat Corporation to intervene in support of Respondents. On October 24, 2000, the Fourth Circuit granted Respondent FCC’s motion to transfer the proceeding to this Court. Venue is proper in this Court under 28 U.S.C. § 2343.

STATEMENT OF THE ISSUES

1. Whether COMSAT's lease of space segment capacity on INTELSAT-owned satellites for the purpose of providing international telecommunications services in the United States obligates the company to pay millions of dollars in "regulatory fees" imposed by the FCC even though (i) the satellites are not regulated by the FCC and (ii) other similarly situated entities are *not* subject to such fees.

2. If the imposition of fees is justified, whether any regulatory fees imposed on COMSAT for its lease of capacity owned by INTELSAT should be prorated to reflect the fact that COMSAT leases only about 17 percent of INTELSAT's capacity, and to prohibit the Commission from levying a full year's worth of regulatory fees in connection with facilities that were not even arguably subject to such fees until approximately halfway through the relevant fiscal year.

PERTINENT STATUTORY PROVISIONS

The pertinent statutory provisions are set forth in an addendum to this brief.

STATEMENT OF THE CASE

Background

COMSAT Corporation ("COMSAT") is a District of Columbia corporation which was created pursuant to legislation enacted in 1962 to facilitate the

development and operation of the world's first global satellite communications system. *See generally Communications Satellite Act of 1962*, Pub. L. No. 87-624, 76 Stat. 419 (1962) (“*Satellite Act*”), *codified as amended at 47 U.S.C. §§ 701-769* (1994 & Supp. 2001).

As ultimately developed, that satellite system has been (and continues to be) owned and operated by the International Telecommunications Satellite Organization (“INTELSAT”)—an international treaty organization comprised of 143 member nations. Pursuant to the *Satellite Act* and several international agreements of the United States, COMSAT serves as the United States Signatory to INTELSAT.² Since 1978, INTELSAT has been operated by its own internal management team, which is subject to the control and oversight of the organization's Board of Governors. *See COMSAT Study*, 77 F.C.C.2d 564, 569 (1980).

² *See 47 U.S.C. § 701(c); see also Agreement Relating to the International Telecommunications Satellite Organization “INTELSAT,”* Art I(g), done Aug. 20, 1971, 23 U.S.T. 3813, 3816 (“*INTELSAT Agreement*”) (defining “Signatory”); *Operating Agreement Relating to the International Telecommunications Satellite Organization “INTELSAT,”* Art. 2, done Aug. 20, 1971, 23 U.S.T. 4091, 4093 (“*INTELSAT Operating Agreement*”) (setting forth rights and obligations of Signatories); *Agreement Establishing Interim Arrangements for a Global Communications Satellite System*, done Aug. 20, 1964, 15 U.S.T. 1705.