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January 21, 2003

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Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E., Suite 110  
Washington, D.C. 20002

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: IB Docket No. 02-87

Intelsat, Ltd. ("Intelsat") and Lockheed Martin Corporation ("Lockheed Martin") hereby respond to the Reply to the Opposition to Petition for Partial Reconsideration filed by PanAmSat Corporation ("PanAmSat") in the above referenced proceeding.<sup>1</sup>

In its Reply, PanAmSat reiterates its argument that post-transaction, Intelsat should not be allowed to offer services to thin route and other non-competitive markets on an unregulated, private carrier basis. For the reasons set forth below and in Intelsat's and Lockheed Martin's joint Opposition to Petitions for Reconsideration, however, the alleged basis for PanAmSat's argument -- that such action *is* needed to prevent Intelsat from abusing any alleged market power on thin routes -- does not withstand scrutiny.<sup>1</sup>

## I. PANAMSAT'S FEARS OF CROSS-SUBSIDIZATION ARE UNFOUNDED

PanAmSat states that it is seeking "to prevent Intelsat from using its market power on non-competitive routes to advantage itself on competitive routes" by "us[ing] monopoly profits earned on non-competitive routes to subsidize its rates on competitive routes."<sup>3</sup> This cross-

<sup>1</sup> Pursuant to the applicable *ex parte* rules, 47 C.F.R. #§ 1.1202(b)(1), Intelsat and Lockheed Martin are serving a copy of this submission on all parties of record in this proceeding.

<sup>2</sup> On January 7, 2003, Litigation Recovery Trust ("LRT") also filed a Reply in this proceeding. LRT not only filed the Reply two weeks late, but, as with previous filings, failed to serve Intelsat, Lockheed Martin or their counsel. Accordingly, LRT's Reply summarily should be dismissed. In any event, Intelsat and Lockheed Martin previously have responded in detail to the allegations raised by LRT and will not respond in detail to them again. As to LRT's claim that the Commission has failed to review the impact of Intelsat's possible acquisition of Eutelsat (LRT Reply at 7), the Commission already has concluded correctly that "reports speculating on possible acquisitions by Intelsat, Ltd. are not a basis to delay action in this proceeding." *Lockheed Martin Corporation, et al., and Intelsat, Ltd., et al., Applications for Assignment of Earth Station and Wireless Licenses and Section 214 Authorizations and Petition for Declaratory Ruling, Order and Authorization*, IB Docket No. 02-87, DA 02-2254, ¶52 (rel. Oct. 25, 2002).

PanAmSat Reply at 3

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subsidization theory is unfounded. The amount of revenue earned annually by Intelsat for switched voice and private line thin route services sold on a private carriage basis is so small as a percentage of total revenue that it simply cannot provide sufficient profits that Intelsat could use to effectively subsidize its thick route private carriage prices. Specifically, the percentage of revenue currently generated annually by Intelsat from switched voice and private line thin route services sold on a private carriage basis is only approximately 11 percent of Intelsat's total private carriage revenue.

## **II. PANAMSAT'S REQUEST WOULD REDUCE CUSTOMER CHOICE**

Today, customers have a choice of whether to purchase switched voice and private line thin route services from Intelsat under tariff or under a private carriage agreement. PanAmSat's request -- that Intelsat be required to sell such services only on a common carriage basis -- would reduce customer choice. While this result may be in PanAmSat's competitive interest, it is not in the *public* interest, when, as here, there is no legitimate reason for such a restriction.

PanAmSat suggests that it is Intelsat's choice whether to sell a customer thin route capacity on a common carriage or private carriage basis.<sup>4</sup> In reality, however, it is the *customer's* choice whether to purchase such service from Intelsat on a common carriage or private carriage basis. As a common carrier, Intelsat cannot refuse to sell service under tariffed prices, terms and conditions, if the customer so desires. Thus, Intelsat currently cannot simply avoid all dominant carrier regulation on its sale of switched voice and private line thin route services -- as PanAmSat suggests it would.

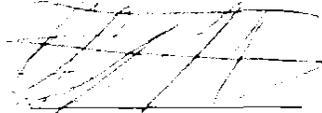
Post-transaction, customers have the identical choices available to them as before the transaction. PanAmSat has offered no credible reason why the Commission should reduce those choices.

<sup>4</sup> "Intelsat is only subject to these [common carrier] 'obligations' when it chooses to provide service through its common carrier subsidiary." PanAmSat Reply at 4.

\* \* \*

For the foregoing reasons, the Commission should promptly deny PanAmSat's Petition for Partial Reconsideration and dismiss LRT's Reply.

Respectfully submitted,



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