

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

COMSAT General Corporation, Lockheed Martin
Global Telecommunications, LLC, and COMSAT
New Services, Inc.,

Assignors,

and

Intelsat LLC and Intelsat MTC LLC,

Assignees,

Petition for Declaratory Ruling under Section 310 of
the Communications Act of 1934, as Amended,

and

Joint Application for Consent to Assignments of
Title II and Title III Authorizations

IB Docket No. 04-235

File Nos.

ISP-PDr-20040528-00005

SES-ASG-20040528-00744

SES-ASG-20040528-00750

SES-ASG-20040528-00751

SES-ASG-20040528-00109

ITC-ASG-20040528-00235

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DEPARTMENT OF DEFENSE PETITION TO DEFER

The United States Department of Defense (“DoD”) has determined national security matters warrant submission of a petition to defer in the above captioned actions. DoD, on its own behalf, notwithstanding the joint petition to defer filed earlier by the Department of Justice (“DOJ”), the Federal Bureau of Investigation (“FBI”), with the concurrence of the United States Department of Homeland Security (“DHS”), Intelsat LLC and Intelsat MTC LLC (collectively, “Intelsat ”), and COMSAT General Corporation, Lockheed Martin Global Telecommunications, LLC, and COMSAT New Services, Inc. (collectively, “COMSAT”), respectfully requests that the Federal Communications Commission (“FCC” or “Commission”) defer grant of the above-

captioned Application(s) until the Department notifies the Commission that potential national security issues have been satisfactorily resolved. The Department hopes to provide such notification to the Commission within the next few weeks.

In the above-captioned proceeding, Intelsat and COMSAT applied pursuant to Section 310(d), 214, and 308 of the Communications Act of 1934, as amended, for Commission consent to COMSAT's assignment to Intelsat LLC of certain Title III radio licenses and other assets, and COMSAT's assignment to Intelsat MTC LLC of certain Title III radio licenses, a Title II common carrier license, and other assets. Because Intelsat's ultimate parent company, Intelsat, Ltd., is organized under the laws of Bermuda, the companies also requested a declaratory ruling that the transaction is consistent with the public interest standard of Section 310(b)(4) of the Act.

The DoD is currently evaluating whether the proposed assignment of COMSAT's licenses and authorizations to Intelsat could impair its ability to preserve national security communications options to ensure the defense of America. The Department therefore requests that, until national security issues are adequately addressed, the Commission defer the formal issuance of an Order concerning Intelsat and COMSAT's Application for Consent to Assignments and Petition for a Declaratory Ruling.

Because the integrity of U.S. telecommunications services is critical to the ability of our government to preserve the national security, enforce the laws, and maintain the safety of the public, DoD has previously commented under Section 310 of the Act, and implementing regulations, regarding national security concerns raised by particular transactions. Thus there is established precedent for delaying approval of an application to assign FCC licenses until DoD has reviewed a specific transaction for national security concerns. In the *Foreign Participation Order*, the Commission said that, in reviewing license applications from foreign carriers under

Section 310(b)(4) of the Communications Act, it would: (1) continue to apply the public interest test, and (2) “continue to find national security, law enforcement, foreign policy and trade policy concerns relevant to our decision to grant or deny Section 214 and 310(b)(4) applications from applicants from WTO member[s].”¹

[W]e realize that foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch...

We thus will continue to accord deference to the expertise of the Executive Branch agencies in identifying and interpreting issues of concern related to national security, law enforcement, and foreign policy that are relevant to an application pending before us.²

Therefore, granting this Petition would be consistent with the Commission’s previous deference to Executive Agencies where national security concerns are present.

The Department of Defense has been working with representatives of the U.S. subsidiaries of both firms to finalize procedures that would resolve its national security concerns. However, it is the opinion of the Department of Defense that granting approval of the proposed assignments requested by the parties in this proceeding before appropriate written and executed agreements are in place could affect the ability of our government to meet its obligations to U.S. citizens to preserve the national security. DoD wishes to ensure that foreign investment in U.S. satellite licenses and authorizations proposed here will not impair the Department’s ability to ensure appropriate security controls are in place to protect sensitive military communications, to meet existing COMSAT General contractual obligations, and to support appropriate contingency responses necessary to defend America.

¹ *In the Matter of Rules and Policies of Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23,891, ¶ 61 (Nov. 1997).

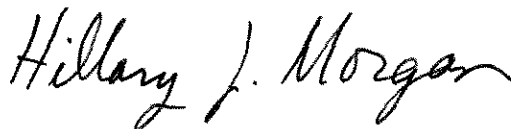
² *Id.* at ¶¶ 62-63

Accordingly, the Department of Defense hereby requests that the Commission defer the formal issuance of an Order on the COMSAT General Businesses and Intelsat Entities' Application for Consent to Assignments and Petition for Declaratory Ruling until such time as the Department notifies the Commission that agreement has been reached on those aspects of the proposed assignments that potentially affect national security interests.

Respectfully submitted,



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