

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Second Annual Report to Congress on)	IB Docket No. 07-252
Status of Competition in the Provision of)	
Satellite Services)	
)	

COMMENTS OF THE SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association (“SIA”) welcomes this opportunity to submit these comments in response to the International Bureau’s Public Notice of November 7, 2007, seeking information on the state of competition in the provision of satellite services.¹ SIA is a U.S.-based trade association providing worldwide representation of the leading satellite operators, service providers, manufacturers, launch services providers, remote sensing operators, and ground equipment suppliers. SIA is the unified voice of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business.² SIA is filing these comments to provide an industry-wide consensus perspective on the highly competitive environment in which satellite services providers operate, vying for customers who can choose from an increasingly broad range of alternative suppliers using a variety of technology platforms.

¹ *IB Invites Comment for Second Annual Report to Congress on Status of Competition in the Satellite Services Market*, DA 07-4562 (Nov. 7, 2007) (“Public Notice”).

² SIA Executive Members include: Arrowhead Global Solutions Inc.; Artel Inc.; The Boeing Company; DataPath, Inc.; The DIRECTV Group; Hughes Network Systems LLC; ICO Global Communications; Integral Systems, Inc.; Intelsat, Ltd.; Iridium Satellite LLC; Lockheed Martin Corp.; Loral Space & Communications Inc.; Mobile Satellite Ventures LP; Northrop Grumman Corporation; SES New Skies; and TerreStar Networks Inc. Associate Members include: ATK Inc.; Constellation Networks Corp.; EchoStar Satellite LLC; EMC Inc.; Eutelsat Inc.; Inmarsat Inc.; IOT Systems; Marshall Communications Corp.; New Skies Satellites, Inc.; Spacecom Ltd.; Stratos Global Corp; SWE-DISH Satellite Systems; and WildBlue Communications, Inc.

I. INTRODUCTION

In a 2005 amendment to the Communications Satellite Act, Congress directed the Federal Communications Commission (the “Commission”) to provide an annual report on the competitive market conditions facing satellite communications services providers.³ The Commission submitted its First Annual Report (“First Report”) on March 26, 2007,⁴ and has requested comments from satellite industry members and the public as it prepares its second annual report.⁵ In the First Report, the Commission correctly concluded that satellite service providers face “effective competition,”⁶ which has resulted in “consumers realiz[ing] significant net benefits in terms of service choice, innovation, and improvements in service quality.”⁷ The Commission further reported that certain satellite operators “face increasing competition from terrestrial alternatives in some areas” and that “trends in major market performance indicators show that any ability by satellite providers to influence the markets is gradually eroding.”⁸ In addition, the Commission “observe[d] significant improvements in market entry conditions in recent years.”⁹

SIA concurs in these assessments as its members experience these competitive realities first-hand in their day-to-day business. The second report should supplement this comprehensive

³ Amendment to Communications Satellite Act, Pub. L. No. 109-34, 119 Stat. 377 (2005), codified at 47 U.S.C. § 703.

⁴ *Annual Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services*, First Report, FCC 07-34 (2007).

⁵ Public Notice at 1–2.

⁶ *First Report*, FCC 07-34 at 2.

⁷ *Id.* at 65.

⁸ *Id.* at 66.

⁹ *Id.*

First Report by focusing on the continued competitive conditions facing satellite operators from all sources and in all areas of service.

II. THE FCC'S SECOND ANNUAL REPORT TO CONGRESS SHOULD SUPPLEMENT THE FIRST REPORT AND REFLECT THE ACTUAL COMPETITIVE CONDITIONS FACING SATELLITE OPERATORS

In the First Report, the Commission conducted a thorough analysis of the markets in which satellite operators participate. Having provided Congress with extensive background information on the historical, regulatory, and technological circumstances of satellite providers in the First Report, the Commission should be able to narrow its focus in the second report to the continuing competitive conditions satellite providers currently face.

In preparing the second report, the Commission should consider competition from all sources and should not feel constrained to limit its inquiry to only satellite-delivered communications services. Rather, the Commission should consider the actual competitive conditions facing satellite operators that provide communications services, which often include, as the First Report acknowledged,¹⁰ competition from terrestrial-based service providers.

The Commission explicitly recognized in its First Report that satellite service providers compete directly for customers with other technology platforms. Specifically, the Commission stated that “[i]t is not uncommon for the same service—the same communications capability that a consumer uses—to be provided by differing platforms such as satellite, radio transmitters on the earth’s surface . . . and/or wires.”¹¹ Perhaps most significant for purposes of market analysis, the Commission affirmed that “[t]hese different technologies afford consumers substantially the

¹⁰ *Id.* at 14.

¹¹ *Id.*

same capability.”¹² By recognizing this lack of differentiation among technologies from a consumer standpoint, the Commission highlighted the range of practicable alternatives available to consumers and the consequent effective competition for communications services.

The Commission has assumed just such a comprehensive approach to competition analysis in similar proceedings.¹³ For example, recent regulatory reviews of satellite company mergers by both the Commission and by the Antitrust Division of the U.S. Department of Justice reflect the fact that satellite services providers participate in a broad market for communications services.¹⁴ Additionally, in the annual video programming and CMRS reports, the Commission considers all relevant terrestrial and satellite providers. For instance, the Commission has sought to “obtain a complete picture of the status of competition” in video programming by looking beyond multichannel video programming distributors (“MVPDs”) to “other technologies not explicitly included within the statutory definition that may have a constraining effect on cable.”¹⁵ More recently, the Commission considered video competition from non-traditional sources such as electric and gas utilities, CMRS providers, internet video, and home video sales and rentals, as

¹² *Id.*

¹³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, Eleventh Report, FCC 06-142, ¶ 21 (2006) (“Eleventh CMRS Report”) (finding in the CMRS context that services are in the same market if consumers view them as close substitutes—i.e., if services are essentially interchangeable from the perspective of most consumers); *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, First Report, 9 FCC Rcd 7442, ¶ 10 (1994) (“First Video Programming Report”) (stating that the Commission would conduct a “fuller economic analysis of the industry” to determine whether there is “effective competition,” rather than mechanically applying the statutory definition).

¹⁴ *See, e.g.*, Memorandum Opinion and Order Approving Merger of Intelsat and PanAmSat, FCC 06-85, ¶¶ 25-46 (June 19, 2006) (analyzing the competitive effects of the proposed transaction and concluding that the merger is unlikely to result in competitive harm); Press Release, Intelsat, Justice Department Clears Intelsat-PanAmSat Merger (May 26, 2006) (noting that the “Justice Department’s Antitrust Division, after a comprehensive review, agreed . . . that the Intelsat-PanAmSat merger does not pose any threat to competition”).

¹⁵ *First Video Programming Report* at ¶ 10.

well as between cable and DBS providers.¹⁶ Similarly, the 2006 CMRS report analyzed not only traditional wireless carriers and MSS carriers, but also the role of the wireline-wireless substitution and emerging technologies such as Wi-Fi.¹⁷ SIA urges the Commission to adhere to this precedent by providing in its second annual report a realistic view of the competition satellite service operators face from all sources.

III. SATELLITE OPERATORS CONTINUE TO FACE EXTENSIVE INTRAMODAL AND INTERMODAL COMPETITION

Since the Commission submitted the First Report, satellite operators continue to face extensive competition. This “effective competition” is a result of the fact that most customers considering satellite services have an increasing range of options from which to choose.

Many customers considering the use of satellite services are likely to have three categories of alternative providers: facilities-based satellite operators with coverage of the desired service area; resellers of satellite capacity; and terrestrial providers with connectivity to the desired endpoints for the communications. Facilities-based satellite operators with U.S. coverage and market access are numerous. They include Intelsat, SES New Skies, Telesat, Satmex, Eutelsat, WildBlue, DirecTV, Echostar, Hughes Communications, Sirius Satellite Radio, XM Satellite Radio, Iridium, Inmarsat plc, Globalstar, and MSV. Two more, ICO and Terrestar, are expected to join these operators in the next few years. With respect to FSS services, not only are existing FSS satellite operators continuing to launch additional satellites,

¹⁶ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Twelfth Annual Report, FCC 06-11 (2006) (“Twelfth Video Programming Report”).

¹⁷ *See Eleventh CMRS Report*.

but new operators such as RascomStar-QAF are entering the market.¹⁸ Satellite resellers are plentiful as well.

The acquisitions of New Skies by SES and PanAmSat by Intelsat, which had occurred prior to issuance of the First Report but were not reflected in its data, are fully consistent with the robust competitive environment described here. In approving the New Skies transaction, the International Bureau stated that “the record contains no evidence that the proposed transfer would harm competition in any relevant product or geographic market.”¹⁹ The Bureau went on to observe that “[t]here is little overlap in the services provided” by U.S.-based SES Americom and Netherlands-based New Skies.²⁰ As noted above, both the Commission and the Department of Justice undertook thorough reviews of the Intelsat/PanAmSat transaction and concluded that it did not pose a threat to competition.²¹

Further, services provided by satellite are also provided by numerous terrestrial competitors—ranging from wholesale submarine and terrestrial cable operators to the many wireline and wireless communications providers that transmit video, audio, voice, and data.²² In

¹⁸ Press Release, RASCOM, The First ever Pan-African telecommunications Satellite System (RASCOM-1) to be launched on the 1st of December 2007 by Arianespace (July 6, 2007) http://www.rascom.org/open_even.php?id=47.

¹⁹ Application of New Skies Satellites Holdings Ltd., Transferor, and SES GLOBAL S.A., Transferee, to Transfer Control of Authorizations Held by New Skies Networks, Inc., and Notification of Change to Permitted Space Station List, International Authorizations Granted, DA 06-69 9 (Int’l Bur. rel. March 29, 2006) at 3.

²⁰ *Id.*

²¹ *See supra* n.14.

²² The FCC has recently reallocated substantial amounts of satellite spectrum for terrestrial use. *See, e.g., Wireless Operations in the 3650-3700 MHz Band, Rules For Wireless Broadband Services in the 3650-3700 MHz Band, Additional Spectrum For Unlicensed Devices Below 900 MHz and in the 3 GHz Band, Amendment Of The Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band*, Report and Order and Memorandum Opinion and Order, 20 FCC Rcd 6502 (2005). It is important for satellite operators to at least retain (if not expand) capacity to maintain the ability to compete with terrestrial providers and provide innovative and cost-effective services to customers, especially services related to emergency response, homeland security, and rural connectivity for which satellite systems are particularly well suited.

addition, most providers in each category have the ability to provide both domestic and international services. These terrestrial-based providers continue to expand their networks and program offerings.²³

The Commission has acknowledged the competitiveness of the market for point-to-point fixed communications services. The Commission has, for example, long recognized that fiber optic cable is an effective substitute for satellite capacity.²⁴ In fact, in its First Report, the Commission identified “the substitution of fiber optic transmission facilities, both terrestrial and undersea cables, for many satellite transponder services” as one factor that shifts demand for those services.²⁵ Illustrating the effectiveness of such substitution, the Commission noted that “[d]emand reduction [in satellite services] may be especially sharp when a new fiber optic cable is brought into service.”²⁶

Fiber deployment continues to increase. As a result, today’s customers have numerous choices between satellite and terrestrial networks and are increasingly turning to terrestrial cable as an alternative provider of point-to-point and point-to-multipoint communications services.

For example, NBC used a combination of satellite and fiber paths to transport its 2004 Summer

²³ For example, on November 29, 2007, Verizon Wireless announced plans to develop and deploy its fourth generation mobile broadband network using LTE – Long Term Evolution – which will allow the company to deliver “unprecedented wireless broadband service for high performance mobile computing, multimedia, and consumer electronic devices and applications.” In announcing this decision, Richard Lynch, executive vice president and chief technology officer of Verizon Communications, said that “The company’s move toward a 4G network is driven by our vision of pervasive wireless Internet connectivity and mobility. . . . Customers want to be truly untethered with advanced communication devices that provide functionality comparable to today’s wired networks – whether it’s downloading or uploading video, gaming, downloading their favorite music, or social networking.” Press Release, Verizon Wireless, Verizon Selects LTE as 4G Wireless Broadband Direction, Technology Platform to be Trialed in 2008 (Nov. 29, 2007) <http://news.vzw.com/news/2007/11/pr2007-11-29.html>.

²⁴ *Comsat Corporation, Petition Pursuant to Section 10(c) of the Communications Act of 1934, as amended, for Forbearance from Dominant Carrier Regulation and for Reclassification as a Non-Dominant Carrier*, Order and Notice of Proposed Rulemaking, 13 FCC Rcd 14083 (1998).

²⁵ *First Report*, FCC 07-34 at 35.

²⁶ *Id.*

Olympics coverage from Athens,²⁷ and Verizon continues to expand its fiber optic service (“FiOS”) to millions of U.S. homes.²⁸ Therefore, the competitive role of terrestrial providers must be considered in any meaningful analysis of the markets in which fixed satellite service providers operate.

The competitiveness of the marketplace is equally evident with respect to satellite digital radio. Consumer options for mobile audio are increasing daily, and satellite radio is just one option in this rapidly changing market.²⁹ Over-the-air terrestrial broadcast radio increasingly includes digital as well as analog options. Listeners today can purchase music through their wireless carriers for their cell phones, or buy music online for download to iPods and other mobile devices. Streaming internet radio, too, will become an increasingly “mobile” option as wireless carriers roll out high-speed data services that allow on-the-go Internet access.

The June 2007 State of the Satellite Industry Report sponsored by SIA and prepared by Futron Corporation highlights several of these recent developments and trends for satellite service providers and is provided as Attachment 1.³⁰

IV. ACCESS TO FOREIGN MARKETS

SIA’s comments on the issue of market access for satellite services are provided as Attachment 2. The attached information contains SIA’s comments and responses to the Office

²⁷ See Ken Kerschbaumer, “NBC Taps Scopus To Transmit Olympics from Athens to America,” *Broadcasting and Cable* (July 26, 2004).

²⁸ See Press Release, Verizon, Verizon Continues to Dramatically Raise Broadband Upload Speeds in FiOS Internet Service Areas (Nov. 20, 2007), <http://newscenter.verizon.com/press-releases/verizon/2007/verizon-continues-to.html> (announcing that Verizon’s all-fiber-optic FiOS network is now available to consumers in sixteen states).

²⁹ See XM Satellite Radio Holdings Inc. and Sirius Satellite Radio Inc., Consolidated Application for Authority to Transfer Control of XM Radio Inc. and Sirius Satellite Radio Inc., MB Docket No. 07-47, 21-39 (filed Mar. 20, 2007) (detailing the variety of services and devices that compete with satellite radio, including terrestrial radio, HD radio, Internet radio, wireless devices, iPods, MP3 players, and CD players).

³⁰ Satellite Industry Association and Futron Corporation, *State of the Satellite Industry Report* (June 2007).

of the United States Trade Representative (“USTR”) pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. § 3106). This information addresses market access issues for satellite services in a number of WTO member or candidate countries and highlights those issues that directly impact SIA’s membership.

V. CONCLUSION

Satellite services providers continue to face “effective competition” in the market for communications services. As Chairman Martin recently observed, “Technological advances . . . create unparalleled opportunities and considerable challenges. Perhaps most important, digital convergence is creating real benefits for consumers worldwide by increasing competition among different platform providers.”³¹ Satellite operators are keenly aware of these changes as they compete globally, across a wide range of services and offerings, often against services provided by increasingly robust and cost-effective fiber and terrestrial wireless networks. The Commission’s report should appropriately recognize the role of satellite operators in today’s

³¹ Kevin J. Martin, Chairman, FCC, “Regulation, Competition, Telecommunications and Content,” Remarks to the Portuguese Association for Communications Advancement (Nov. 16, 2006), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-268491A1.pdf

competitive landscape. With their unique advantages due to their technological differences, satellites will meet this competitive challenge by continuing to provide innovative services and meeting the nation's rural and homeland security communications needs.

Respectfully submitted,

A handwritten signature in black ink that reads "Patricia Cooper". The signature is written in a cursive, flowing style.

Patricia Cooper
President
Satellite Industry Association
1730 M. Street, NW Suite 600
Washington, DC 20036

December 7, 2007

ATTACHMENT 1



State of the Satellite Industry Report

June 2007

Sponsored by the



*Prepared by
Futron Corporation*





Study Overview

- Futron Corporation performs the study for SIA
- The study covers four satellite industry segments:
 - Satellite Services
 - Satellite Manufacturing
 - Launch Industry
 - Ground Equipment
- Surveys request revenue information from key companies in the industry
 - Individual responses are kept confidential
- Futron augments surveys with publicly available data and research to derive industry revenues



Satellite Industry Overview

Satellite Manufacturing

- Satellite Manufacturing
- Component and Subsystem Manufacturing



Ground Equipment

- Mobile Terminals
- Gateways
- Control Stations
- VSATs
- DBS Dishes
- Handheld Phones
- DARS Equipment

Satellite Services

- Mobile
 - Mobile Data
 - Mobile Voice
- Fixed
 - Broadband
 - Private Networks
 - Remote Sensing
 - Transponder Agreements
- Broadcasting
 - Satellite Television
 - Satellite Radio

Launch Industry

- Launch Services
- Vehicle Manufacturing
- Component and Subsystem Manufacturing



Survey Methodology and Results

- Surveys are distributed via email
- Sent to key players in the following sectors:
 - Satellite Services
 - Satellite Manufacturing
 - Launch Industry
 - Ground Equipment
- Total of 56 surveys emailed
 - Sent to 21 SIA members and 35 non-members
 - 25 U.S. and 26 non-U.S. recipients
- 46% response rate



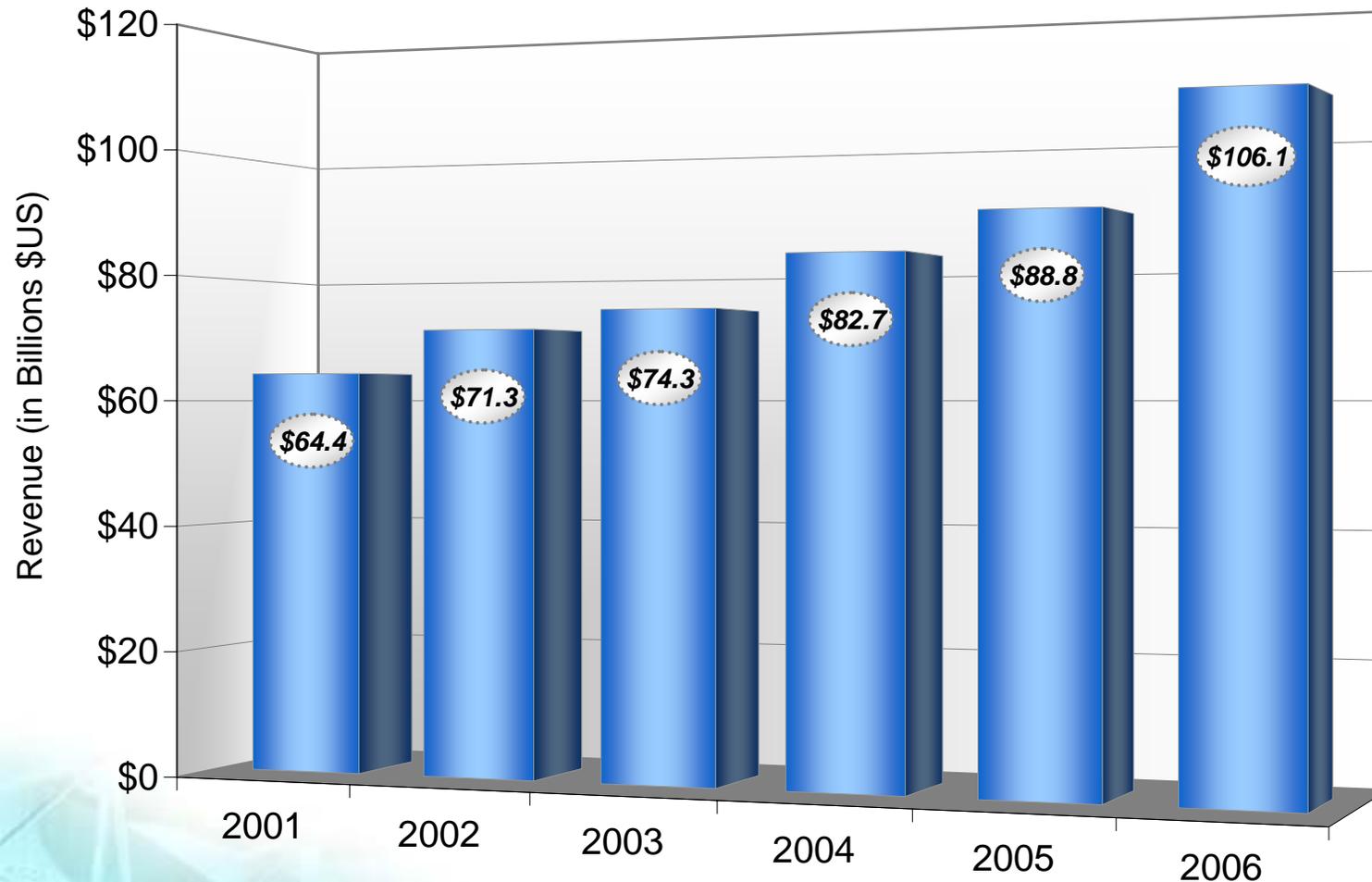


Methodology Notes

- Satellite Manufacturing data
 - Include manufacturing activity for both commercial and government customers
- Launch Industry data
 - Include services provided by private companies for both commercially-owned and government-owned payloads
 - Do not include government launches, such as Shuttle launches or ISS missions
- All Launch Industry and Satellite Manufacturing revenues are recognized in the year of launch
- Revenue is expressed in real-year U.S. dollars (not adjusted for inflation)

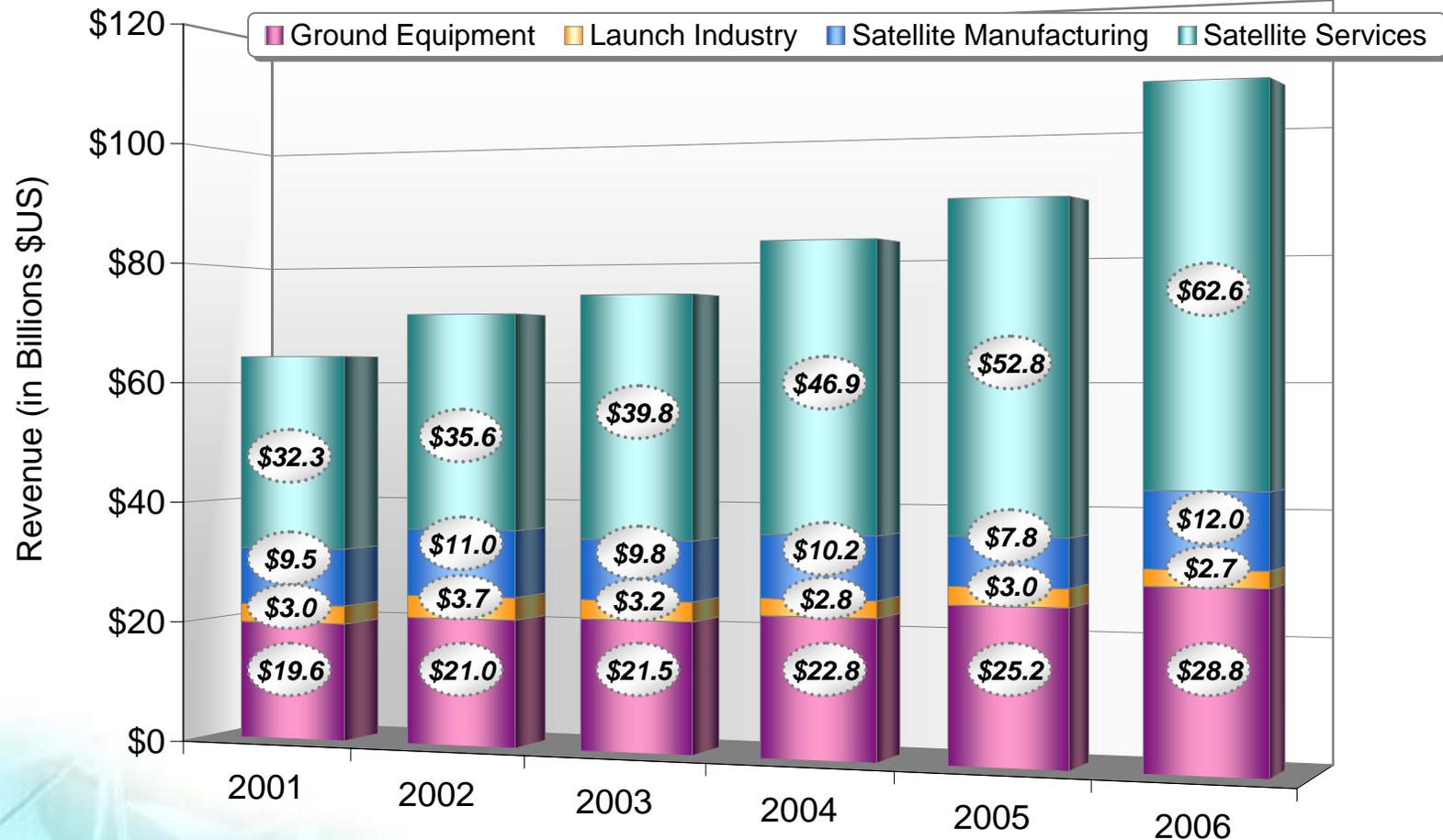


World Satellite Industry Revenues



World satellite industry revenues had average annual growth of 10.5% for the period 2001-2006

World Revenues By Sector



Satellite Manufacturing and Satellite Services showed the greatest growth: 54% and 19%, respectively



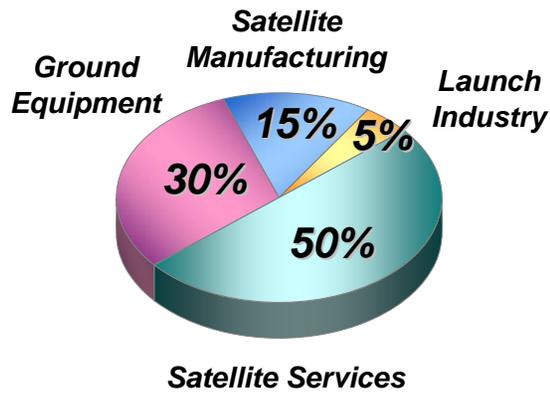
Satellite Industry Findings

- Worldwide industry revenue growth was 19.5% from 2005 to 2006, compared with a 7.4% increase from 2004 to 2005
- Satellite Services grew approximately 19% from 2005 to 2006, primarily due to growth in satellite television
- Due to an increase in the number of satellites launched, 2006 Satellite Manufacturing revenues grew by more than 50%, compared with a revenue decrease of almost 24% from 2004 to 2005
- Launch services was the only sector that experienced a decline in revenue over 2005, reflecting the retirement of the higher-priced Titan 4B in 2005

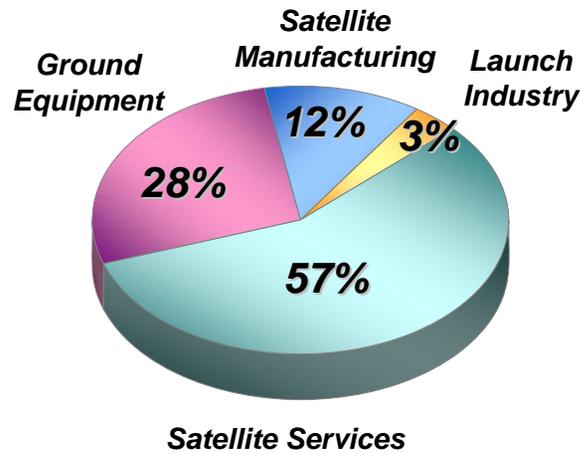


World Revenues By Sector

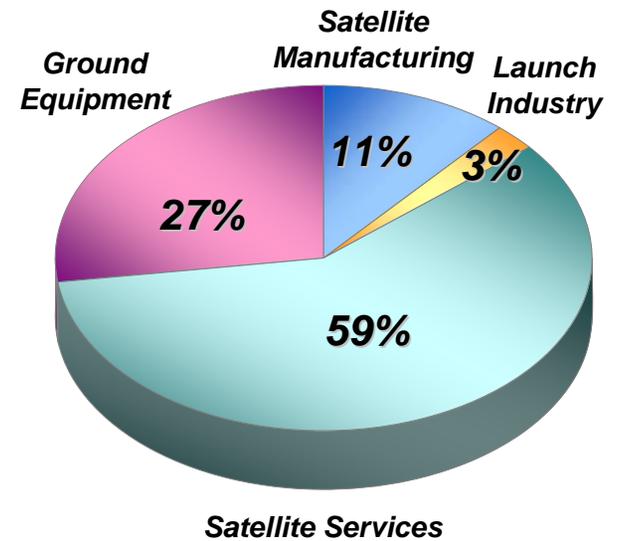
2001
\$US64.4B



2004
\$US82.7B



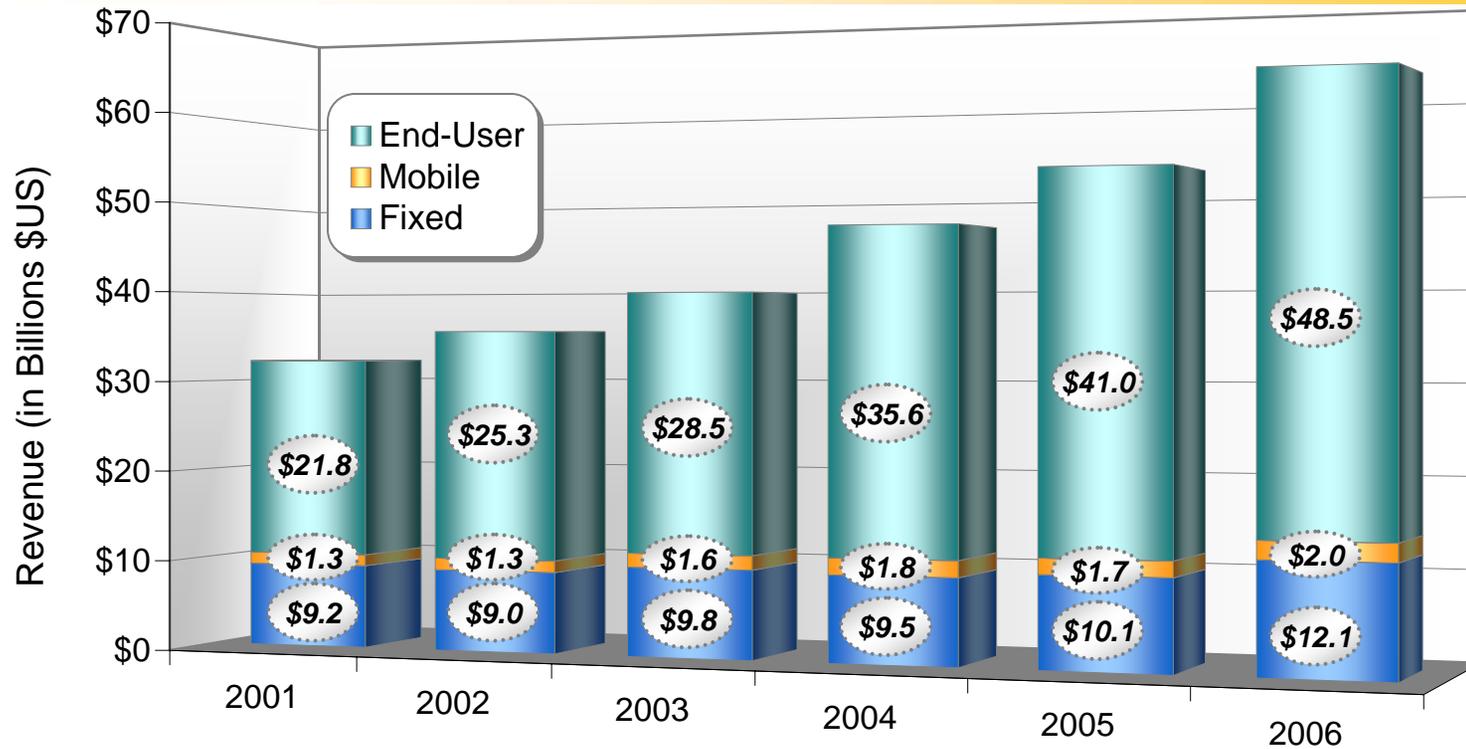
2006
\$US106.1B



■ Ground Equipment ■ Launch Industry ■ Satellite Manufacturing ■ Satellite Services



World Satellite Services Revenue



	2001	2002	2003	2004	2005	2006
Broadcasting	\$21.8	\$25.3	\$28.5	\$35.6	\$41.0	\$48.5
- Satellite Radio	\$0.0	\$0.0	\$0.1	\$0.3	\$0.8	\$1.6
- Satellite Television	\$21.8	\$25.3	\$28.4	\$35.3	\$40.2	\$46.9
Mobile	\$1.3	\$1.3	\$1.6	\$1.8	\$1.7	\$2.0
Fixed	\$9.2	\$9.0	\$9.8	\$9.5	\$10.1	\$12.1
- End-User Broadband	\$0.2	\$0.2	\$0.3	\$0.2	\$0.3	\$0.3
Total	\$32.3	\$35.6	\$39.8	\$46.9	\$52.8	\$62.6



Satellite Services Findings

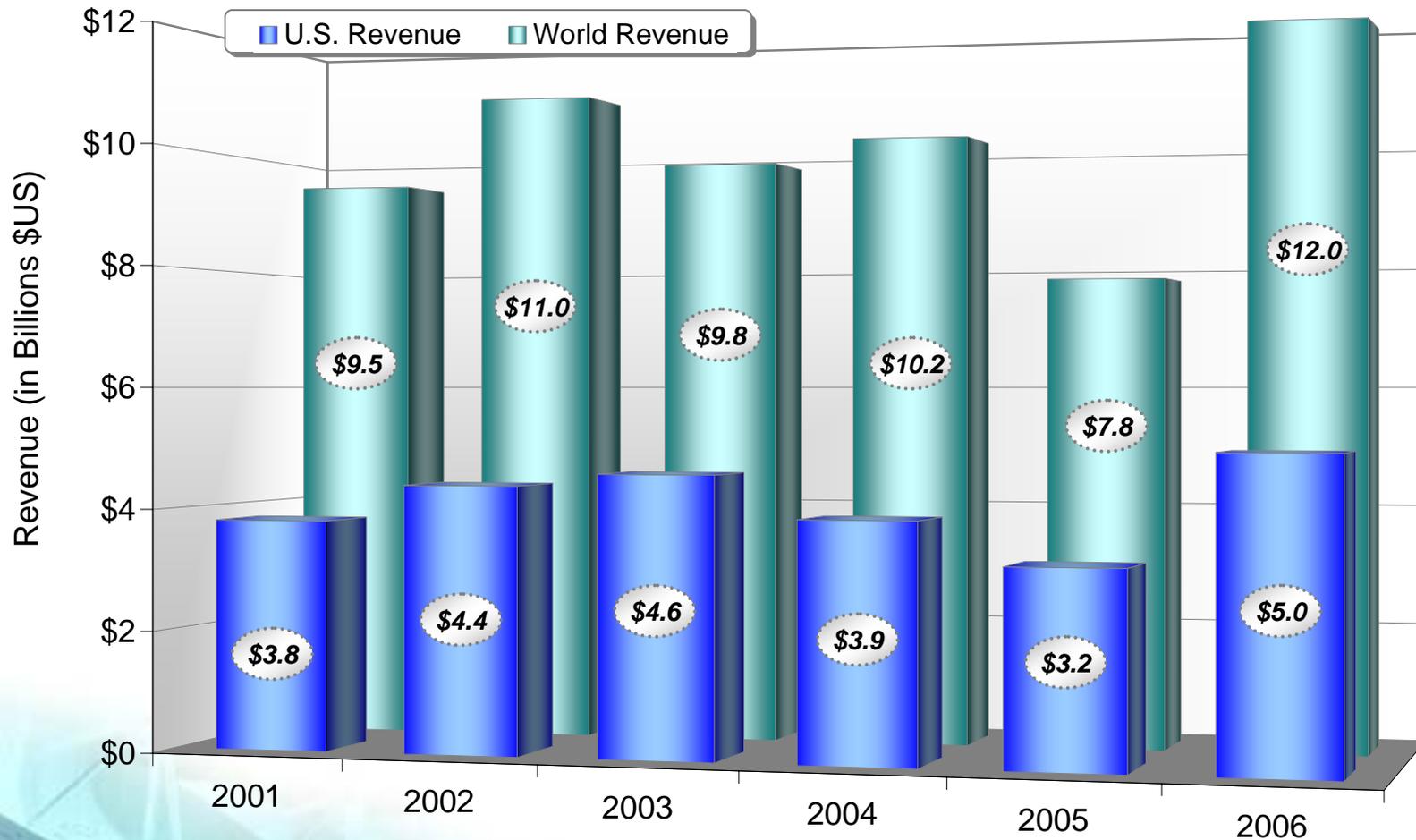
- Satellite Services growth of 19% in 2006 outpaced 2005 growth of 13%
 - Satellite Television revenues increased 17% globally in 2006, again contributing the largest portion of overall satellite services growth
 - Global satellite TV subscribers grew about 10% over 2005 levels, reaching approximately 89 million worldwide
 - Satellite Radio continued to experience strong growth
 - Revenues doubled from \$0.8 billion in 2005 to \$1.58 billion in 2006
 - Subscribers grew by 50%—from 9.4 million in 2005 to 14.2 million in 2006
 - Overall Fixed Satellite Services revenue grew by 20% over 2005, while Mobile Satellite Services revenue increased by 18%, driven by growth in voice traffic



Satellite Services Findings (2)

- Overall fixed satellite transponder fill rates grew from 58% in 2004 to 70% by 2007
- Transponder Agreement revenues, which includes contracts for the use of capacity on a full or partial transponder basis, grew 25% in 2006, compared with only 4% growth in 2005
- Revenue for global commercial satellite remote sensing increased approximately 16% from 2005 to 2006, driven by evolving business opportunities:
 - New and continuing military and intelligence imagery contracts
 - Expanding civil and commercial imagery markets, including online mapping services

Satellite Manufacturing Revenues



N.B. - Satellite Manufacturing revenues are recorded in the year the satellite is delivered/launched, not when contract is awarded. World revenue includes US revenue.



Satellite Manufacturing Findings

- Global Satellite Manufacturing revenues in 2006 showed the highest growth rate of all sectors at 54%, led by U.S. revenue growth of 57%
 - 101 payloads were launched in 2006, an increase of 53% over 2005
 - A 76% increase in the number of government payloads accounts for this change
 - The average revenue per payload launched remained stable
- In 2006, government payloads generated 75% of total manufacturing revenues
- Commercial payloads generated just under \$3 million in revenue

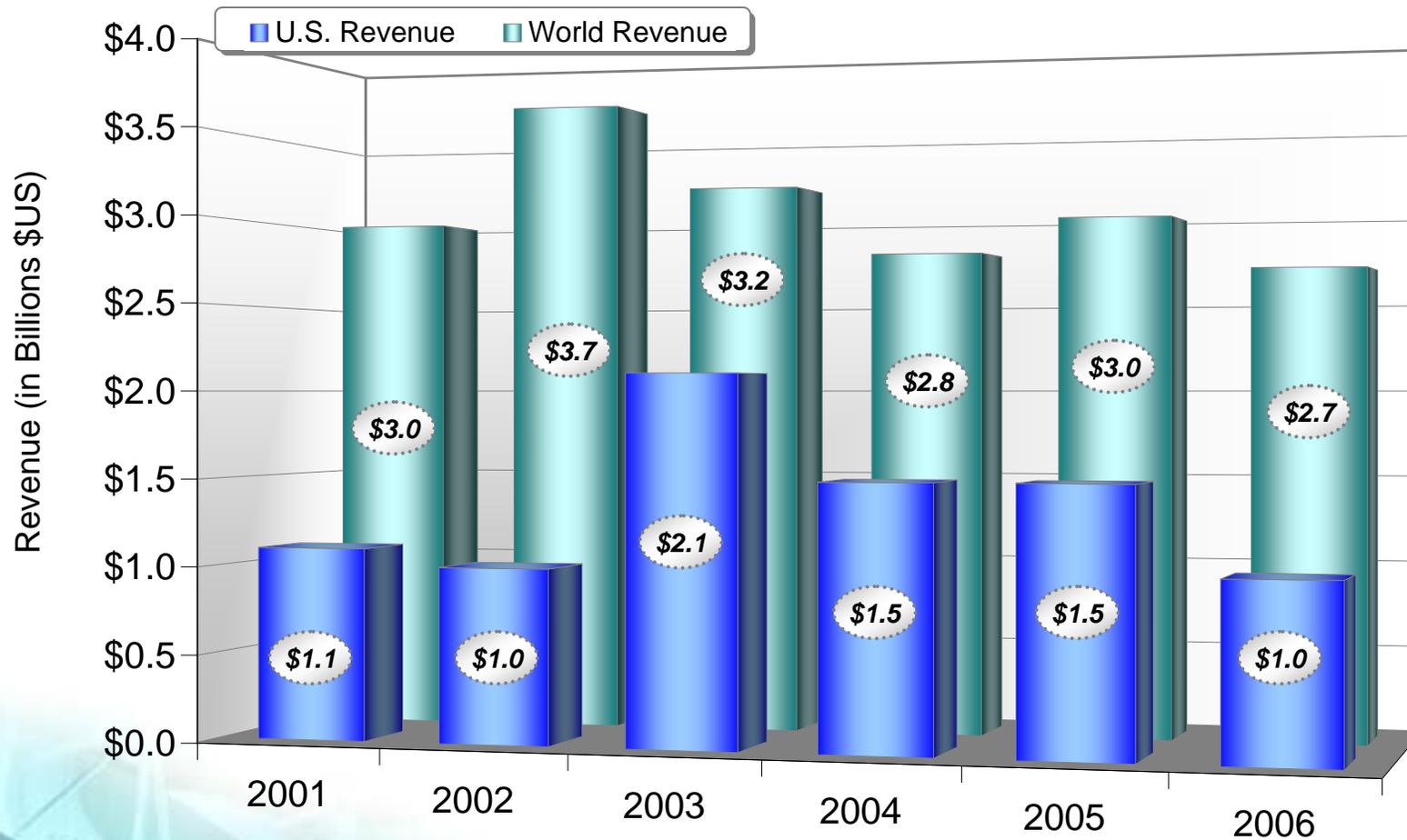


Satellite Manufacturing Findings (2)

- Of 101 payloads launched in 2006:
 - U.S. share of manufacturing revenues increased slightly, but remained about 41%
 - Commercial customers accounted for 25%, compared with 31% in 2005
- 2006 saw three more commercial GEO manufacturing orders than in 2005:
 - 5 for Alcatel Alenia Space (now Thales Alenia)
 - 2 for Boeing Satellite Systems
 - 7 for EADS Astrium
 - 1 for LMCSS
 - 3 for Khrunichev
 - 1 for Orbital Sciences Corp.
 - 6 for Space Systems/Loral

Data on manufacturing orders from Friends of Futron 2006 End-of-Year Manufacturing Report

Launch Industry Revenues



N.B. - Launch Industry revenues are recorded in the year the launch occurs, not when contract is awarded.



Launch Industry Findings

- In 2006, worldwide launch industry revenue decreased by 10% over 2005
 - 2005 was the final year for higher-priced Titan 4B launches
 - Adjusting prior year figures for these launches, revenues showed a gain of about 23% globally from 2005 to 2006
- The U.S. share of launch industry revenue continued to decline, although the number of U.S. launches increased
 - U.S. launch providers had 37% of global launch revenue in 2006, compared with 50% in 2005 and a high of 66% in 2003
 - The Titan 4B retirement was the driver of this decline

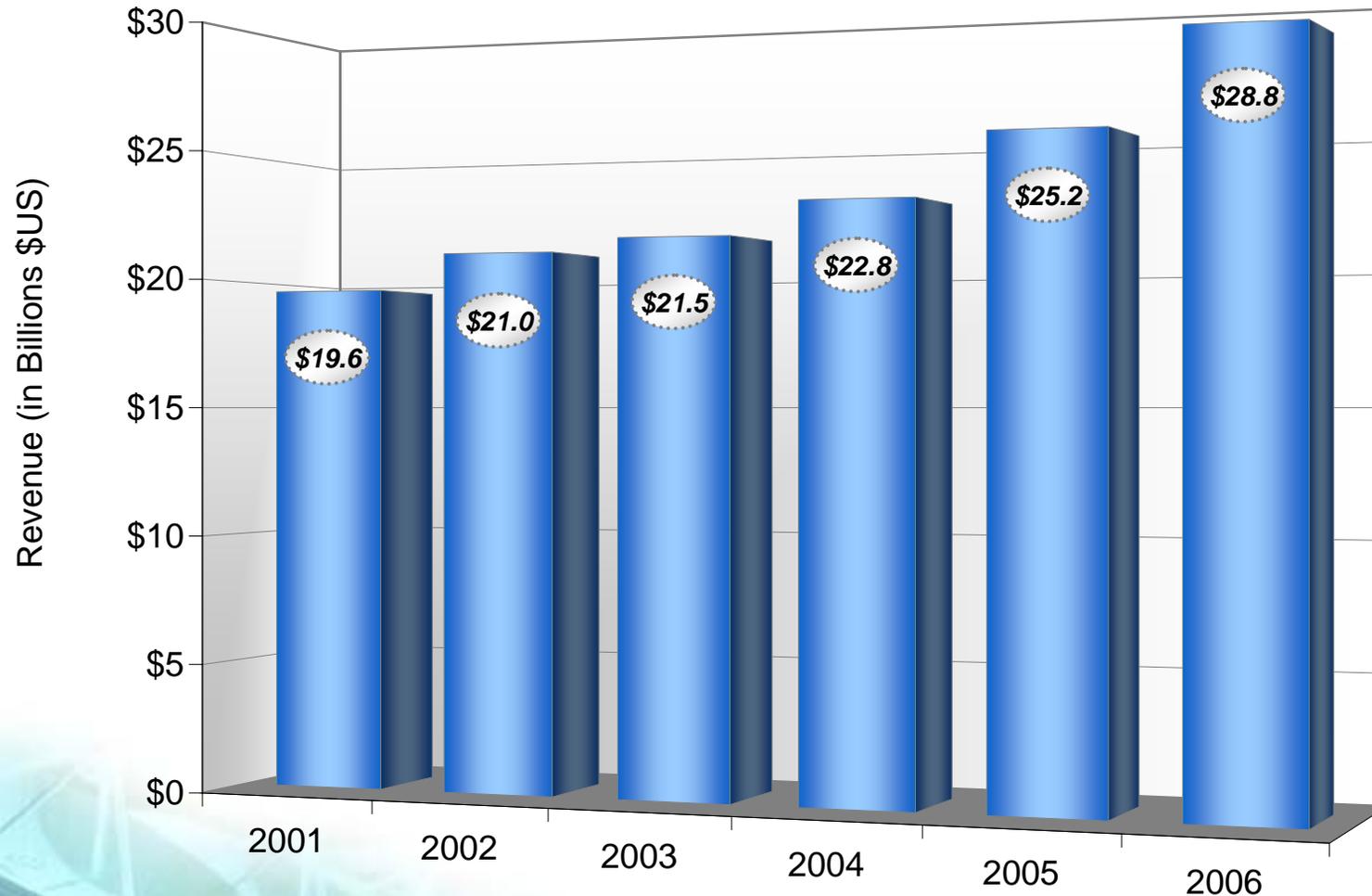


Launch Industry Findings (2)

- Of 41 commercial launches in 2006:
 - The U.S. captured 44%, up from 33% of 39 launches the year before
 - Commercial customers accounted for 44%, compared with 46% in 2005
- 2006 saw two more commercial GEO launch orders than in 2005:
 - 6 for Arianespace
 - 3 for ILS
 - 1 for Lockheed Martin Commercial Launch Services
 - 9 for Sea Launch/Land Launch



World Ground Equipment Revenues



Includes: Gateways, NOCs, Satellite News Gathering equipment, flyaway antennas, VSATs, satellite tv dishes, satellite radios, satellite phones



Ground Equipment Findings

- Overall revenue in the Ground Equipment sector grew 14% over 2005
- Ground Equipment accounts for the second largest share of industry revenues, with the proportion remaining stable over the prior 5 years
- End-user equipment drives revenue growth
 - Prices for consumer service-related hardware (e.g., satellite radio and DTH TV receivers) are increasing as new technology and capabilities are introduced
 - In 2006, global satellite ground equipment revenues were \$28.8 billion; by contrast, U.S. cellular handset revenues were \$17.0 billion in the same period

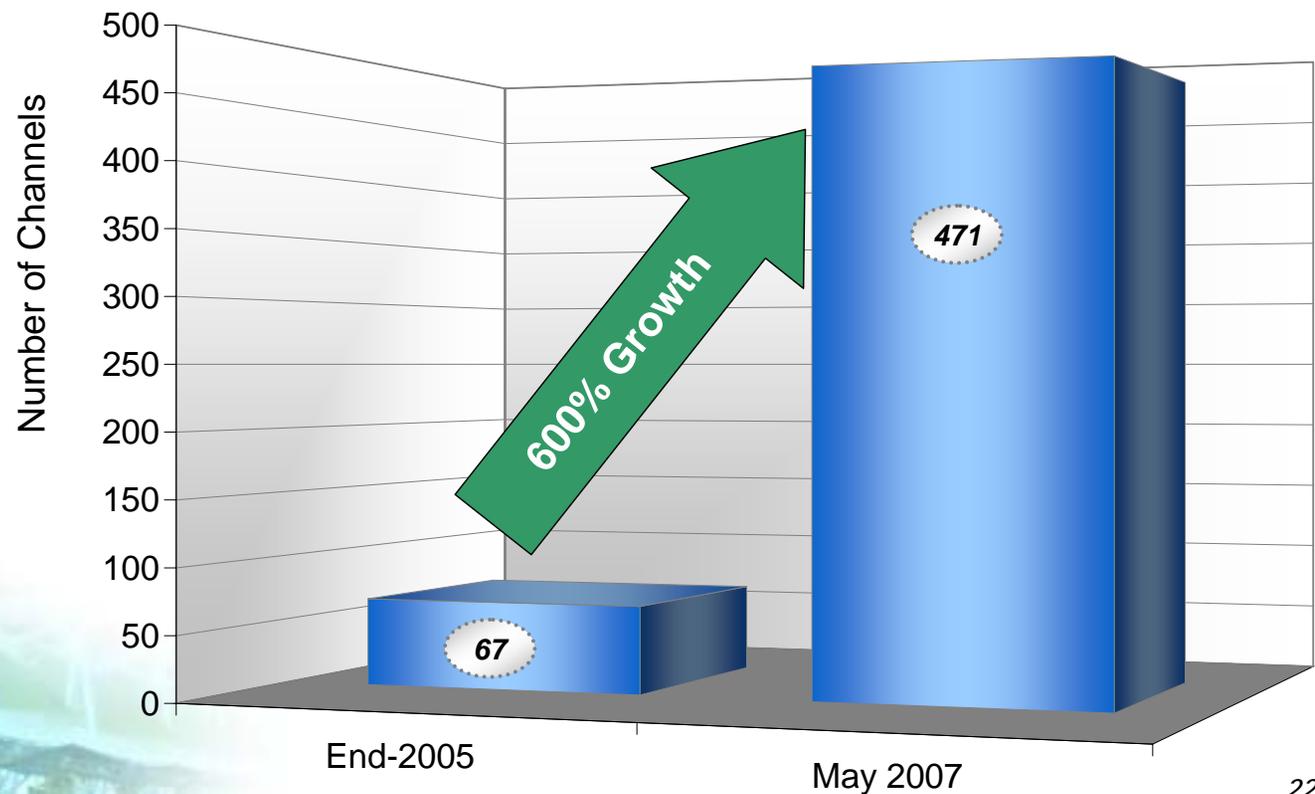
- End-user terminal statistics reflect relative size of various consumer markets

Terminals in Service, End-2006

BROADBAND	565,300
DARS	14,152,212
DMB	750,000
DTH	88,737,915
MSS	1,473,729

- Satellite-based Digital Multimedia Broadcasting (DMB) is currently only available in limited parts of Asia, although plans are being made for service in other regions
- Direct-to-home (DTH) television terminal numbers are calculated based on subscriber numbers

- Despite dramatic growth since 2005, HDTV channels still account for only 2% of all television channels carried via satellite today
- Over the next five years, HDTV channels are expected to grow another 600%, with average annual growth of 35%





Satellite Industry Trends

- Robust global industry-wide growth signals real market expansion beyond 'recovery/rebound' levels
 - Developed markets show steadily increasing demand for converged applications (e.g., data, video, voice to mobile devices)
 - Continued demand for increased geographic penetration in all markets
 - Increasing requirements for enhanced products/applications in emerging markets
 - Changing regulatory regimes in key markets (e.g., India DTH licenses)





Satellite Industry Trends (2)

- Most industry sectors reflect impact of broader market, or 'all boats rise with the tide'
 - Significant increases in manufacturing and services revenue
 - Other sectors show stable to slightly increasing trends
 - Launch revenues not indicative of market downturn (i.e., Titan 4B)
- Higher consumer and wireless demand
 - HDTV finally taking off as programming becomes available
 - Backhaul for cellular services fuels growth in voice services in developing markets
 - Mobile Broadband: government applications account for surge in required satellite bandwidth



Satellite Industry Trends (3)

- Key Technology and Service Trends
 - Steady growth of hybrid networks and bundled services
 - e.g., cellular backhaul, video/voice/data bundles
 - Strategic partnerships tailor offerings for new market segments
 - e.g., DirecTV-Verizon
 - Legacy products decline at predictable rates
 - e.g., voice, analog video
 - Advanced products and services increase penetration in mature markets, creating new opportunities
 - e.g., IPTV
 - Regulatory developments support rapid technical expansion
 - e.g., requirement for 'local-into-local' carriage for DTH providers



Satellite Industry Trends (4)

- Key Market Drivers
 - Strong global economic climate
 - Continued government and military demand and investment
 - Accelerated replacement and realignment of major commercial fleets
 - Increasing levels of global consumer demand
 - Availability and relative 'affordability' of capital for investment



- Some industry-wide trends continue
 - Accelerated capital investment plans for consolidated commercial operators
 - Government-industry partnerships for critical programs
 - Global appetite for more power, more mobility, more convergence
 - Demand for key technologies, i.e. Broadband, HDTV will reach critical mass in major markets
- Some significant questions remain:
 - The relative US industry position, e.g. launch
 - Evolution of targeted 'bundling' strategies for new service
 - Pace of regional market recovery in all sectors
 - Effect of further consolidations and strategic transactions

ATTACHMENT 2



VIA E-MAIL
FR0502@ustr.eop.gov

December 15, 2006

Trade Policy Staff Committee
Office of the United States Trade Representative (“USTR”)
1724 F Street, N.W.
Washington, D.C. 20508
Attn: Section 1377 Comments

Dear Sir/Madam:

Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106), the Satellite Industry Association (“SIA”) hereby submits the following comments to the USTR.

SIA is a U.S.-based trade association representing the leading satellite manufacturers, fixed satellite operators (“FSS”), mobile satellite operators (“MSS”), satellite service providers, and launch service companies throughout the globe. SIA serves as an advocate for the U.S. commercial satellite industry on regulatory and policy issues common to its members. With its member companies providing a broad range of manufactured products and services, SIA represents the unified voice of the commercial satellite industry.¹

SIA offers these comments in an effort to identify necessary elements that require review in the commitments made by accession countries to the World Trade Organization (“WTO”), and to improve existing offers by WTO members that are relevant to the provision of satellite services. These comments address those issues which directly impact its membership and on which there is a consensus view of the membership.

¹ SIA Executive Members include: The Boeing Company; Globalstar, L.P.; Hughes Network Systems, Inc.; ICO Global Communications; Intelsat; Iridium Satellite LLC, Lockheed Martin Corp.; Loral Space & Communications Ltd.; Mobile Satellite Ventures; Northrop Grumman Corporation; PanAmSat Corporation; and SES Americom Inc.. SIA’s Associate Members include Eutelsat, Inc.; Inmarsat Ltd.; New Skies Satellites Inc.; Stratos Global Corp.; The DirecTV Group; IOT Systems LLC; Marshall Communications Corp.; and Spacecom Ltd.

Respectfully submitted,

A handwritten signature in black ink, reading "David Cavossa". The signature is written in a cursive style with a large, stylized initial "D".

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I. COUNTRIES WITH WTO ACCESSIONS IN PROGRESS

Algeria	Samoa
Andorra	Saudi Arabia
Azerbaijan	Serbia and Montenegro
Bahamas	Seychelles
Belarus	Sudan
Bhutan	Tajikistan
Bosnia and Herzegovina	Tonga
Cape Verde	Ukraine
Ethiopia	Uzbekistán
Kazakhstan	Vanuatu
Lao People's Democratic Republic	Vietnam
Lebanese Republic	Yemen
Russian Federation	

II. NECESSARY ELEMENTS IN WTO OFFERS FROM ACCESSION CANDIDATES

In the context of the discussions regarding the ascension to the WTO of the countries listed above, SIA suggests adoption of the following principles in their offers:

1. *Provide transparent, non-discriminatory procedures.* Licensing or authorization procedures should be streamlined and transparent, and should be the same for earth stations, handsets, and all terminal equipment accessing domestic or foreign satellite systems. Countries should be encouraged to act on satellite access applications within a reasonable period of time, not to exceed six (6) months.
2. *Delete or eliminate local entity/local presence requirements.* To be added to the Permitted Space Station List -- which allows a foreign satellite to be utilized in the United States -- a foreign satellite operator is NOT required to establish a local company. Such a requirement would be costly, burdensome and disadvantageous to a foreign operator. Similarly, many countries have blanket licensing procedures in place for handsets and portable terminals operating with foreign MSS systems without a local presence requirement.

Many administrations around the world grant market access authorizations to foreign satellite systems without requiring local establishment or incorporation. These countries recognize that it would be infeasible for global satellite operators to maintain corporate subsidiaries and offices in the all countries in their coverage areas. To facilitate cross-border services, many countries require only a local post address to receive official licensing correspondence. The WTO accession candidate countries should make similar commitments that do not require foreign satellite operators to be licensed only through a local company.

3. *Provide national treatment for foreign operators.* Most Favored Nation (“MFN”) exemptions and any other limitations that could put U.S. satellite operators at a disadvantage should be avoided.
4. *Eliminate burdensome frequency coordination requirements.* Market entry should not be denied if the multi-year coordination process has not been definitively completed; rather, the frequency coordination process of the International Telecommunication Union (“ITU”) should address actual technical issues in a separate process.

In the United States, the Federal Communications Commission (“FCC”) does not require an applicant to complete international coordination before granting that applicant’s satellite system authorization to provide service in the U.S. Rather, authorizations are conditioned with the requirement to undertake ITU coordination. WTO member countries should adopt similar policies and not attempt to block the entrance by U.S. satellite operators simply by requiring, and then withholding, completion of international coordination.

5. *Eliminate monopoly.* No special monopoly status should be afforded to incumbent telecommunications operators or satellite systems in such a way that they permit them to act as an intermediary in the sale of foreign space segment, or in the granting of access to MSS systems. Foreign operators should be able to sell space segment capacity directly to any licensed earth station operator in the accession countries – *e.g.*, to a broadcaster, telephone company, internet service provider, corporation/enterprise, VSAT service provider, etc.

In the case of MSS systems, end-users should be able to access their preferred MSS satellite provider without going through a local company or a local monopoly provider. Wherever spectrum tables provide for the exclusive operation of Global Mobile Personal Communication Services (“GMPCS”) the operation of MSS handsets should not require individual authorizations but should instead be operable based on blanket authorizations.

There should be no customs duties or barriers to impede the temporary importation of MSS handsets and associated equipment by callers wishing to access MSS systems in country.

6. *Permit the transport of broadcast video signals and associated audio signals.* The delivery of broadcast video services via satellite should not be excluded from a country’s WTO offer. Governments should allow foreign satellite operators to deliver video programming and any associated audio signals to, for example, cable head ends, since this is merely a transport service of the content developed by licensed broadcasters. The foreign satellite operator does not intervene at the content or programming level.
7. *Countries should not mandate deployment of particular technologies to achieve technical and policy requirements.* For example, in the case of any security requirements imposed on MSS operators, the MSS operator should be able to demonstrate compliance via the

most advanced technical means available, without regard to particular technologies or configurations.

III. WTO COUNTRIES WHOSE OFFERS NEED TO BE IMPROVED

Bangladesh	Mexico
Brazil	Philippines
China	Russian Federation (accession candidate)
Egypt	Saudi Arabia
India	South Africa
Israel	Thailand
Kazakhstan (accession candidate)	Vietnam (accession candidate)
Korea	Venezuela
Malaysia	

1. Bangladesh

- Local presence: a satellite operator is required to have a local partner in order to obtain a license and provide space segment for use in Bangladesh. This local presence requirement should be eliminated.

2. Brazil

- Local entity/local presence: Brazil's General Telecommunications Law, No. 9.472 requires that foreign satellite operators provide their services in Brazil through an entity constituted under Brazilian laws and with its administrative headquarters in Brazil, which acts as the legal representative of the foreign satellite capacity in the country. This legal entity requirement should be eliminated, as Brazilian satellites do not face the same requirements when serving the U.S. market. The requirement also impedes development of multiple equally situated competitive providers by favoring a single provider. Further, if all WTO member countries imposed such a requirement satellite operators would be burdened with maintaining corporate entities in all countries of their coverage – an unsustainable corporate structure and expense.
- National treatment: local regulations require that preference be given to Brazilian satellite provider companies for the provision of satellite telecommunications services, as long as there is equivalency with other companies. This preference should be eliminated.
- Frequency coordination requirement: local regulations require foreign satellite operators to complete a technical coordination with the local regulator (ANATEL) in accordance with ITU regulations. This requirement often serves as a market barrier and should be eliminated.

- Excessive fees: foreign satellite operators are subject to excessive fees. The fee calculation formula used by ANATEL takes into account the last price paid at auction for the right to operate a Brazilian orbital slot. It is important to note that Brazilian satellite operators are not required to pay a fee to be included in the “Permitted Space Stations List” and, thus, be allowed to serve the U.S. market.

3. China

- National treatment: national treatment is not provided to foreign satellite operators.
- Monopoly: Chinasat continues to have a monopoly for the provision of satellite services in China.
- Transparency: there is a lack of transparency in satellite regulation in China.

4. Egypt

- Transparency: there are no established regulations; regulatory policies in Egypt are unknown and/or ad hoc.
- Duopoly: only two licensed operators can provide satellite services in Egypt; however, the incumbent, Nilesat, is still the dominant provider.

5. India

- Restrictions on the use of foreign satellite capacity for direct-to-home (“DTH”) services: the Ministry of Information & Broadcasting (“MIB”) has established guidelines that provide a preference for Indian satellites for DTH services, but which allow the use of foreign satellites if the foreign satellite has completed the international frequency coordination process with the domestic INSAT satellite system. However, in practice, DTH licensees are not able to contract directly with foreign operators even if the coordination has been completed; the foreign satellite capacity must be procured through the Indian Space Research Organization (“ISRO”), the operator of the INSAT system. ISRO only permits such use if it has not available capacity on its system.
- Lack of clarity regarding Department of Space (“DOS”) role: the Department of Telecommunication’s New Telecom Policy 1999 stated that users of transponder capacity would be able to access both domestic and foreign satellites, in consultation with the DOS, of which ISRO forms part. While it might be necessary for the DOS to ensure that foreign satellites are completing international coordination agreements with the INSAT system, there are no technical or commercial reasons why foreign satellite capacity should need to be procured through DOS (ISRO), a direct competitor of foreign satellite

operators. This lack of clarity results in a competitive advantage for the domestic Indian satellite system.

- Ku-band restrictions: Ku-band is banned for use of broadcasting to cable head ends. There is no logical reason for this restriction, given that Ku-band capacity is just as suitable for video distribution as is C-band capacity, which is currently approved for this application in India. This restriction should be removed.
- Security concerns: security restrictions on MSS operators require the deployment of particular gateway infrastructure despite the fact that more advanced technologies can meet policy concerns.

6. Israel

- Local presence: local presence with registration is authorized discretionally by the Ministry of Justice with severe rules on foreign companies' incorporation (citizenship, etc.). Additionally, foreign ownership is limited to 74% of all international services.
- National treatment: national treatment is not afforded to foreign operators in Israel - only use of Bezeq infrastructure and networks is permitted

7. Kazakhstan

- National treatment: Kazakhstan has launched its own national satellite (KazSat 1). The government has signaled –through correspondence with satellite service providers – that it intends to require service providers to move certain services to the KazSat satellite. There should be no preferential or special treatment vis-à-vis any of the other local or global satellite systems.
- Monopoly: Kazakh Telecom's monopoly, scheduled to end in January 2007, should be terminated.
- Local presence: limitations on foreign investment should be removed prior to allowing Kazakhstan to enter the WTO. Kazakhstan should not impose any gateway requirements on the provision of VSAT services. That is, the country should permit the use of VSAT systems whose HUB stations are located outside of the country.
- Transport of video signals should be allowed: Kazakhstan should not attempt to exclude broadcasters from the entities which can purchase space segment directly from the foreign satellite operators.

8. Korea

- National treatment: there is a failure to provide national treatment for foreign operators in Korea and preference is given to local operators. Foreign operators can only provide satellite capacity to Korean customers via the few licensed Korean carriers (Korea Telecom, Dacom, Onse).

9. Malaysia

- National treatment: there is a failure to provide national treatment for foreign operators in Malaysia and preference is given to local operators.

10. Mexico

- Local presence/foreign ownership restrictions: there is a 49% cap on foreign ownership of the entity which holds a concession to provide space segment in Mexico. Additionally, space segment must be contracted and invoiced locally through that Mexican entity. Mexican satellite operators are not subject to the same burdensome requirements when serving the U.S. market.
- Security concerns: MSS operators must deploy gateway earth stations that are otherwise not required to satisfy security policies. Newer technologies are available and, therefore, the gateway requirement serves as a barrier to market entry. The requirement to market only through an operating local company is also a barrier because few such companies exist with which to partner. Development of local expertise in new areas is blocked by this requirement.
- Substantial fees: Mexico applies substantial spectrum usage fees, under the Federal Rights Law, which do not affect domestic and foreign satellites equally. Mexican satellite operators are not subject to the same burdensome requirements when serving the U.S. market. Additionally, prospective licensees must demonstrate local capital investments far in excess of actual requirements for marketing in country. With operational satellites in place, foreign operators have the technical capability to provide capacity and services to the country without needing to make internal capital investments. The internal capital investment requirements should be eliminated.

11. Philippines

- National treatment/local preference: foreign operators are treated differently than domestic operators, and local satellite operator is given preferential treatment (“right of first refusal” for Mabuhay).

12. Russian Federation

- Transparency: Russian satellite regulation is not transparent. The legal requirements and administrative responsibilities associated with the provision of satellite services in Russia are not clearly defined.
- Local entity/local presence: the Russian Federation should not require that U.S. operators establish a local company in order to provide satellite capacity to authorized entities. No similar requirement is applicable to Russian satellites wishing to serve the U.S. market.
- National treatment: the Russian Federation (through Government Decree No. 88) establishes a preference for the use of Russian satellite communications systems. In addition, Order No. 97 of the Ministry of Information Technologies and Communications requires that the connection of communication centers (nodes) located within the boundaries of the Russian Federation be done exclusively through communication lines that run across the territory of Russia or connected via communication satellites controlled from Russia. Any preference or special treatment for Russian satellites should be removed from Russia's WTO offer. There should be no first right of refusal for the Russian Satellite Communications Company ("RSCC") on the sale of satellite capacity in Russia, nor should there be a requirement to sell satellite capacity through said entity.
- Security concerns: the Russian Federation has cited security concerns as a reason for requiring the deployment of earth station gateways for MSS services. This requirement has been superseded by technical innovation. Security concerns and policies should not require deployment of specific technologies in ways that favor local operators.
- Frequency coordination: market entry should not be denied if the multi-year coordination has not been definitively completed; rather, the ITU frequency coordination process should address actual technical issues in a separate process.
- Monopoly: no special monopoly status should be afforded to Rostelecom, nor should said company be required to act as an intermediary in the sale of foreign space segment.
- Transport of video signals should be allowed: the Russian Federation should not permit broadcasters to purchase space segment directly from foreign satellite operators.
- Certification process: there is an expensive certification process for anyone who wants to sell equipment in Russia or wants a license. This constitutes a barrier to entry. Russia should recognize EC certifications and reduce or eliminate barriers to certification and sale or lease of terminals.

13. Saudi Arabia

- National treatment/local preference: there is a failure to provide national treatment for foreign operators in Saudi Arabia and preferential treatment is given to local satellite operators.

14. South Africa

- Transparency: there is a lack of transparency in satellite regulation in South Africa.
- Foreign ownership restrictions: foreign ownership restrictions should be eliminated.
- Monopoly: the current duopoly should be lifted and foreign satellite operators should be allowed to provide space segment and satellite services directly to authorized entities in South Africa.
- Excessive fees: South Africa imposes extraordinarily high license fees for MSS. South Africa should apply reasonable fees for all similarly situated providers.

15. Thailand

- Monopoly: there is a monopoly for international (CAT) and domestic (TOT) services, which results in a failure to provide national treatment for foreign operators and impairs market entry.

16. Vietnam

- National treatment: Vietnam has its own satellite operator (Vinasat) which has not yet launched its first satellite. Once launched, there should be no preferential or special treatment vis-à-vis any of the other local or global satellite systems. Nor should Vinasat enjoy any special privileges in the provision of interim capacity it may lease from existing satellite systems.
- Monopoly: VNPT should not be allowed to serve as an intermediary for the sale of space segment. Operators should be able to provide satellite capacity directly to all licensed entities.
- Transparency: satellite regulations in Vietnam are not transparent.

17. Venezuela

- National treatment: Venezuela's Organic Telecommunications Law calls for preferential treatment of Venezuelan satellites, despite the fact that the country's WTO offer did not include an MFN exemption on satellite services. Furthermore, draft regulations on satellite services provide an additional preference for satellites of "international entities" by subjecting them to more lax local presence requirements than those imposed on other satellite operators (both foreign and domestic).
- Local presence: draft regulations on satellite services classify the sale of space segment as a "service", requiring a foreign operator to obtain two instruments of authorization, both of which trigger a domicile requirement in accordance with Venezuelan law. Additionally, the foreign operator must name a technical and commercial representative, all of which will drastically increase the cost of doing business in Venezuela. These burdensome requirements should be eliminated or minimized.
- Reciprocity: draft regulations on satellite services call for the local regulator to sign bilateral reciprocity agreements with the Administrations notifying foreign orbital positions. This would seem inconsistent with Venezuela's WTO offer, which did not include an exemption for satellite services. The Venezuelan government should be encouraged to exempt WTO-member countries from the reciprocity requirement.



*Information on Market Access for Satellite Communications
Provided to the U.S. Trade Representative in Various E-mail Responses to Questions
during the Period February 21-23, 2007*

1- People's Republic of China

USTR: SIA has indicated that Chinasat continues to have a monopoly for the provision of satellite services in China. Can SIA provide more details about what – if anything - SIA members have done in order to sell satellite capacity to Chinasat for use in China and what specific services are of interest in that country.

SIA: China is a restricted satellite market. Foreign satellite operators are required to obtain government approval or enter into a contract with a “qualified domestic entity” in order to provide services in China. Foreign operators are prohibited from leasing transponder capacity directly to end-users without prior approval of the Ministry of Information and Industry (“MII”). In fact, no such approval to a foreign satellite operator has been granted to date by the MII; all authorized satellite service providers in China are domestic companies (Chinasat and Sinosat). These two companies are the only ones that hold a Basic Telecommunications Services (“BTS”) operating license in China. In addition, AsiaSat and APT are allowed to provide services in China by virtue of being Hong Kong companies.

With respect to specific services that are of interest in that country, DTH and video contribution services are high on the list. In addition, carriage of data and IP traffic (broadband services) for enterprise and VSAT networks, tele-education and remote connectivity, cellular backhaul, and international connectivity services are areas expected to require increasing amounts of satellite transponder capacity.

2- Egypt

USTR: SIA has indicated that only two licensed operators can provide satellite services in Egypt, with Nilesat being the dominant provider. Who is the other operator and are both that operator and Nilesat only satellite operators (providing bare capacity) or do they also provide telecom services? Additionally, has anything changed with respect to SIA member efforts to enter the market as of January 1, 2006?

SIA: Egypt has made recent strides towards competition, which are noted herein. Egypt has a national satellite operator (Nilesat) and four new VSAT licensees. Nilesat operates two satellites that have served the region since 1998. The four VSAT licensees (Alkan, Egyptian Satellite Channel, EgyptSAT and African Waves) can only use National Telecommunication Regulatory Authority (NTRA)-approved space segment (this includes space segment from several international providers). As a side note, VOIP is not allowed to be provided over satellites.

3- Israel

USTR: Is there a requirement that a satellite operator established locally in order to simply provide space segment? When SIA indicates that national treatment is not afforded to foreign operators in Israel, does SIA mean that the Amos system enjoys some kind of preference for the sale of space segment? Or is the issue that the only customer SIA members can sell to in Israel is Bezeq?

SIA: Israel can be characterized as a market in which limited competition is allowed. The primary laws relating to satellite communications are the Telecommunications Act and its implementing regulations, and the Wireless Telegraphy Ordinance. The Act regulates the provision of telecommunications operations and services, while the Ordinance regulates the operation of wireless facilities (and requires any entity wishing to establish or maintain a wireless telegraphy station, or installing, working or maintaining any apparatus for wireless telegraphy, to obtain a license from the Government --wireless telegraphy includes satellite signals).

Foreign satellite operators do not need a specific authorization from the Ministry of Communications to offer satellite capacity services in Israel. Companies seeking authorization to install and operate an earth station to access or use capacity on a foreign satellite in order to provide telecommunications services in Israel require a host of licenses (wireless license, telecommunications services license, type approval license, trading license, and special import license). These licenses are specifically tailored to the particular operator, rather than broadly defined. If the applicant for a wireless station license is a foreign company, then it must form a local subsidiary (either as a registered Israeli branch of a foreign company or as an Israeli registered subsidiary) to hold such license. In addition, the applicant for a wireless station license must not constitute a security risk to the State.

4- Malaysia

USTR: How is the preference for local satellite operators manifested in Malaysia?

SIA: The Malaysia government has mandated that Malaysian government-related agencies use satellite services operated by local companies. Use of satellite services operated by local companies is not mandatory for private sector companies, although such use is “encouraged”.

The Communications and Multimedia Commission implements and enforces the provisions of communications and multimedia laws in Malaysia, and also advises the Ministry of Energy, Communications and Multimedia on national policy objectives. When an applicant files for an earth station authorization, this authorization is reviewed by the Commission, which in turn makes a recommendation to the Ministry. The Ministry has broad “discretion” to grant or not to grant authorizations.

5- Philippines

USTR: Can SIA provide any documentation which demonstrates that the Mabuhay system has a First Right of Refusal (FRR) on the sale of space segment? In what other ways are foreign satellite operators treated differently from domestic operators?

SIA: Local operators in the Philippines are "supposed" to give Mabuhay a first option to bid for providing space segment capacity. This option is not enforced all the time, which allows foreign satellite operators to provide services in the country.

Foreign satellite operators actively seeking customers in the Philippines are required to establish a "local commercial presence" for regulatory reasons. This requirement is generally handled by establishing a local representative or distributor to act for the provider in the country, or by establishing a branch or subsidiary.

The preference for local operators in the Philippines is found in Memorandum Circular No. 4-3-99, and in particular, section 1 of article 1, which reads:

*“ARTICLE 1
ACCESS TO INTERNATIONAL FIXED SATELLITE SYSTEMS*

Sec. 1 Except when otherwise disallowed by law, all public telecommunications entities (PTE) enfranchised and certificated to install, operate and maintain international telecommunications systems and services shall be allowed direct access to any international fixed satellite system provided that:

a. the international satellite operator has an existing reciprocal agreement with the Philippines and validated by the Commission;

b. the concerned international satellite system operator has a commercial presence in the country; and

c. Philippine satellite operator(s) shall be given preference to provide the space segment capacity requirements of enfranchised telecommunications entity after all factors are equally considered; provided further that entities engaged in research and development, education, health, safety and rescue shall be allowed direct access to international satellite systems designed and operated solely for research and development, education, health, safety and rescue.”

Note that the one satellite operator in the Philippines, Mabuhay, is actually using an Indonesian orbital slot, which makes it questionable if it can even be considered a Philippine satellite.

6- Thailand

USTR: How does the existence of international and domestic monopolies result in a failure to provide national treatment for foreign operators? Is there some rule or regulation which requires those companies to purchase space segment from the domestic operator, or is it more of a commercial issue, because CAT and TOT are the only service providers to whom capacity can be sold?

SIA: Historically, Shin Satellite had an exclusive arrangement with the Communication Authority of Thailand (“CAT”) which resulted in the Thaicom satellite system being the only satellite service platform authorized in Thailand. After this exclusivity period expired (September 1999), CAT took the position that Shin was the only licensed entity allowed to offer satellite capacity within Thailand and that use of non-Thaicom satellites by Thai end-users was not permitted (although foreign satellite operators could be accessed in Thailand with prior CAT authorization). In addition, it is important to note that most (if not all) of the international gateways in Thailand were owned and operated by CAT.

The National Telecommunications Commission (“NTC”) has not yet developed any satellite related regulations. There are currently no licenses being issued for any type of satellite services or operations in Thailand. This lack of regulation and licensing has created an unreliable, ad hoc environment that has been making foreign companies extremely reluctant to do business in Thailand.