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August 26, 2008

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Applications for Consent to Transfer Control of Stratos Global Corporation and Its Subsidiaries from an Irrevocable Trust to Inmarsat plc, IB Docket No. 08-143, DA 08-1659**

Dear Ms. Dortch:

Inmarsat plc respectfully submits this corrected copy of its Opposition, filed August 25, 2008. As filed, the first page after the Summary inadvertently contained a "draft" header that was an artifact from before the document was finalized for filing. The attached corrected Opposition removes that stray header, but is otherwise identical to the document filed on August 25, 2008.

Please contact the undersigned if you have any questions.

Sincerely yours,

/s/

John P. Janka
Jeffrey A. Marks

Counsel for Inmarsat plc

Attachment

CERTIFICATE OF SERVICE

I, Jeffrey A. Marks, hereby certify that on this 26th day of August 2008, I caused to be served a true copy of the foregoing by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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

In the matter of	)	
	)	
Robert M. Franklin, Transferor	)	IB Docket No. 08-143
	)	DA 08-1659
Inmarsat plc, Transferee	)	
	)	FCC File Nos.:
Applications for Consent to Transfer	)	ITC-T/C-20080618-00276
Control of Stratos Global Corporation and	)	ITC-T/C-20080618-00275
Its Subsidiaries from an Irrevocable Trust to	)	SES-T/C-20080618-00818
Inmarsat plc	)	SES-T/C-20080618-00821
	)	SES-T/C-20080618-00820
	)	SES-T/C-20080618-00819
	)	0003453455
	)	ISP-PDR-20080618-00013

OPPOSITION OF INMARSAT PLC

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August 25, 2008

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EXHIBIT 1: Complete Notification – Inceptum 1 AS' Acquisition of Telenor Satellite Services AS (filed Dec. 12, 2006)

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SUMMARY

This application seeks Commission consent to transfer control of Stratos Global Corporation and its subsidiaries (collectively, "Stratos") from an irrevocable trust to Inmarsat plc ("Inmarsat"). Vizada, Inc. and Vizada Services LLC (together with their parent companies, "Vizada") filed the sole objection. Vizada is a reseller of about 38% of Inmarsat's global services and Stratos' primary competitor, and currently is in negotiations with Inmarsat about continuing in that role.

The proposed transaction would be the second step of a two-step transaction. The Commission authorized the first step in December 2007, when it authorized the transfer of control of Stratos to an irrevocable trust in a transaction indirectly financed by an Inmarsat subsidiary that also acquired an option to acquire indirect control of Stratos. The instant transaction involves the exercise of that option.

The first step was structured to ensure compliance with contractual restrictions that prevent another Inmarsat subsidiary from either selling its mobile satellite services directly to end users, or controlling a distributor of Inmarsat services. Those distribution restrictions are a pre-privatization legacy—from a time when Inmarsat was owned and controlled by the former Signatories who also distributed Inmarsat services (including Vizada's predecessors-in-interest, Telenor and France Telecom). Those restrictions, which also severely limit Inmarsat's ability to contract with new distributors, will automatically expire on April 14, 2009, regardless whether the proposed transaction closes. Significantly, the expiration of those restrictions will break down the PTT-legacy walls that currently prevent Inmarsat from operating in the same manner as every other satellite company—freely choosing its distributors and deciding when it makes business sense to sell services directly to consumers.

Although Vizada invokes those forthcoming changes in its current relationship with Inmarsat as the basis for its objection, it is readily apparent that those circumstances do not arise from the Stratos transaction, but rather arise from the expiration of the existing contractual agreements that Inmarsat has with its distributors. Commission policy is not to consider non-transaction-specific factors (or private contractual matters) in its merger review.

Even more important, in approving the first step of this transaction, the Commission rejected the very same arguments about alleged "competitive effects" that Vizada raises here. Moreover, the Commission recognized that Inmarsat's ability to improve its distribution structure by vertically integrating with the Stratos distribution network would be pro-competitive. Specifically, the Commission (i) considered the potential competitive impact of the vertical integration of Inmarsat and Stratos, (ii) concluded that it posed no competitive concerns because of the existence of strong competition in the marketplace, and (iii) recognized the significant efficiencies and public interest benefits that such integration is expected to achieve. Vizada does not demonstrate any marketplace changes in the last eight months that would lead to a different conclusion today. Moreover, Inmarsat cleared the Hart-Scott-Rodino ("HSR") process in the first step as the beneficial owner of Stratos for HSR purposes, and no further HSR filing is needed for this second step.

In taking its second bite at the proverbial apple, Vizada argues that the Commission should use a different standard of review this time, and should consider a factor that the Commission sometimes takes into account in reviewing mergers of heavily regulated dominant carriers: whether the transaction will reduce or eliminate the need for regulation. However, the factual underpinning for that factor simply is not present here, as the Commission does not regulate Inmarsat (or any of its competitors) as a dominant carrier.

Even if the Commission were to consider Vizada's core concern—the imminent expiration of the legacy distribution arrangements of which Vizada has been an entrenched, primary beneficiary—there is no basis for denying or conditioning approval of this transaction. In fact, this second step of the Stratos transaction is simply about the manner and speed with which Inmarsat will be able to implement certain proposed efficiency gains in its distribution structure. It is one step towards, and only one element of, Inmarsat's plans to develop a more efficient distribution channel to market its services (i) in which Inmarsat wishes to include Vizada and other third-party distributors, and, in any event, (ii) that certainly will inure to the benefit of end-users of Inmarsat services.

Vizada's speculation about the alleged harms from Inmarsat's ability (for the first time) to negotiate the terms for distributing its own services on an arm's-length basis is just that—unsubstantiated speculation. When Vizada does cite "evidence" in support of its arguments, Vizada grossly mischaracterizes the information that it references.

In the absence of any demonstrated competitive harm from the transaction, there is no basis to condition the grant of consent, as Vizada requests. Moreover, Commission precedent shows that Vizada's suggested conditions are inefficient, anticompetitive, and would negate the public interest benefits of this vertical transaction. In this respect, structural separation is not favored as a remedy, even in cases involving bottleneck control that is not present here. The Commission has already rejected Vizada's concerns that Inmarsat may favor Stratos over Vizada. Moreover, Vizada presents no evidence that its concerns about confidential information have not been, and will not continue to be, adequately addressed by the terms of its contractual relationship with Inmarsat.

Contrary to Vizada's suggestion, this application is timely, particularly considering the expected April 2009 closing of the proposed transaction. Vizada presents no valid reason for deferring processing of this application, and the Commission certainly should not hold the application in abeyance to provide Vizada leverage in its ongoing contractual negotiations with Inmarsat, as Vizada requests.

In sum, Vizada raises no substantive issue that the Commission has not already considered and rejected, and Vizada's arguments (once again) are not about protecting competition, but rather are about protecting Vizada. There is not a shred of evidence that any harm to competition (*i.e.,* to consumers) would arise from the proposed vertical integration of Stratos with Inmarsat. To the contrary, allowing Inmarsat to indirectly control Stratos would improve the efficiency of Inmarsat's MSS distribution and thereby allow Inmarsat to compete more effectively in a robust market.

For these reasons, Inmarsat urges the Commission to promptly deny the Vizada Petition and grant the Stratos Application, so that end users of Inmarsat services may realize the benefits of this proposed vertical integration as soon as possible after April 14, 2009.

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

In the matter of	)	
	)	
Robert M. Franklin, Transferor	)	IB Docket No. 08-143
	)	DA 08-1659
Inmarsat plc, Transferee	)	
	)	FCC File Nos.:
Applications for Consent to Transfer	)	ITC-T/C-20080618-00276
Control of Stratos Global Corporation and	)	ITC-T/C-20080618-00275
Its Subsidiaries from an Irrevocable Trust to	)	SES-T/C-20080618-00818
Inmarsat plc	)	SES-T/C-20080618-00821
	)	SES-T/C-20080618-00820
	)	SES-T/C-20080618-00819
	)	0003453455
	)	ISP-PDR-20080618-00013

OPPOSITION OF INMARSAT PLC

Inmarsat plc ("Inmarsat") hereby opposes the Petition to Deny of Vizada, Inc. and VIZADA Services LLC (together with their parent companies, "Vizada") to the applications for consent to transfer control of Stratos Global Corporation and its FCC-authorized subsidiaries (collectively, "Stratos") from an irrevocable trust to Inmarsat (collectively, the "Stratos Application"). The Commission should dismiss the Vizada Petition because (i) the Petition is based on changes in Vizada's private, contractual relationship with Inmarsat that will occur regardless of the proposed transaction, (ii) the Petition is not about protecting competition, but rather is about protecting Vizada, and (iii) the Commission rejected the substance of the arguments raised in the Petition just eight months ago. In contrast, granting the Stratos Application would serve the public interest by allowing Inmarsat to improve the efficiency of Inmarsat's MSS distribution, and thereby compete more effectively in a robust market.

I. INTRODUCTION

The Stratos Application seeks Commission consent to the second step of a "two-step transaction." In December 2007, the Commission authorized the first step of the transaction: the transfer of control of Stratos to an irrevocable trust established by CIP Canada Investment Inc.[1] As part of that transaction, Inmarsat's subsidiary, Inmarsat Finance III Limited ("Inmarsat Finance"), indirectly financed the acquisition of Stratos and obtained an option to later acquire indirect control of Stratos (the "Call Option"). The irrevocable trust was employed to ensure compliance with contractual restrictions that prevent another Inmarsat subsidiary, Inmarsat Global Ltd. ("Inmarsat Global"), from selling its mobile satellite services directly to end users, or owning or controlling a distributor of Inmarsat services, until after April 14, 2009. In this proceeding, the parties seek Commission consent to the second step of the two-step transaction, in which an indirect transfer of control of Stratos to Inmarsat is expected to be effectuated on or shortly after April 15, 2009 (subject to the receipt of governmental approvals).

Vizada, a direct competitor of Stratos, is the only party to object to the proposed transfer of control. Vizada distributes (*i.e.*, resells) satellite services that it obtains from Inmarsat, and also resells competitive satellite services offered by a variety of Inmarsat's competitors. Vizada is the successor in interest to the Inmarsat distribution businesses established by Telenor and France Telecom prior to Inmarsat's privatization (when they were Inmarsat Signatories). Through its consolidation of these former-PTT-based distribution businesses, Vizada is now the gatekeeper to approximately 38% of Inmarsat's global traffic.

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[1] *Stratos Global Corporation, Transferor; Robert M. Franklin, Transferee; Consolidated Application for Consent to Transfer of Control*, 22 FCC Rcd 21328 (2007) ("*Stratos-Trust Order*").

As described further below, by acquiring the Inmarsat distribution businesses developed by Telenor and France Telecom, Vizada became the beneficiary of favorable distribution agreements that are a legacy of the pre-privatization ownership and control of Inmarsat by PTTs. Those agreements will expire on April 14, 2009, and Vizada and Inmarsat are in negotiations over a possible new distribution arrangement. Thus, it is no surprise that Vizada has filed objections in this proceeding, attempting to gain commercial leverage in its negotiations with Inmarsat.

Just eight months ago, when approving the first step of this transaction, the Commission considered and rejected the very same arguments about alleged "competitive effects" that Vizada raises here. Specifically, the Commission considered the potential competitive impact of the vertical integration of Inmarsat and Stratos and concluded that it posed no competitive concerns.[2] Moreover, at that time, Inmarsat itself was required to seek Hart-Scott-Rodino ("HSR") clearance as the beneficial owner of Stratos for HSR purposes. Inmarsat cleared the HSR process within the initial 30-day waiting period.[3] No further HSR filing is required for this second step.

Granting the Stratos Application will serve the public interest because it will enable Inmarsat to improve the efficiency of its MSS distribution structure by integrating Stratos' mature retail distribution network into the Inmarsat group. Moreover, through this acquisition, Inmarsat will be able to utilize the same type of distribution avenues that are enjoyed by its satellite operator competitors and by other communications companies, thereby enhancing

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[2] *Id.* at 21356, ¶ 63.

[3] In its review, the Justice Department would have appropriately applied its guidelines in defining the market and in analyzing the potential for competitive harm. *Cf.* Vizada Petition to Deny at 27-28 (referring to the DoJ/FTC Horizontal Merger Guidelines, which, on their face, are not relevant in this vertical transaction).

Inmarsat's ability to serve the needs of its end users in the United States and throughout the world with innovative, relevant and high-value service propositions.

II. THE APRIL 2009 EXPIRATION OF INMARSAT'S DISTRIBUTION AGREEMENTS IS INDEPENDENT OF THIS TRANSACTION

Vizada's Petition is based on an attempt to conflate (i) its private contractual issues with Inmarsat, and (ii) the alleged effects of the proposed transaction. It is therefore important to explain why the forthcoming changes in Inmarsat's distribution structure, and therefore changes in Inmarsat's relationship with Vizada, are entirely independent of the proposed transaction – and in the interest of end users of Inmarsat services.

As described above, over the last decade, Inmarsat has successfully transitioned from an intergovernmental organization ("IGO") to a commercial provider of satellite-delivered services. However, Inmarsat currently is contractually bound to sell its services through a distribution structure that originated, before its privatization, with the former Inmarsat Signatories who once controlled Inmarsat.

As the Commission knows well, Inmarsat originally was established as a global "wholesaler" of MSS to Signatory owners from various countries who "landed" Inmarsat services at the facilities of Land Earth Station Operators ("LESOs"), and then resold those services either directly to end users or through service providers. This arrangement was extended for the benefit of the former Signatory owners who owned over 95% of Inmarsat immediately before Inmarsat was transformed from an IGO to a private company in 1999.

In order to obtain the necessary shareholder approval for the transaction in 2003 that led to the substantial dilution of former Signatory ownership mandated by the ORBIT Act,[4]

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[4] *Inmarsat Group Holdings Limited, Petition for Declaratory Ruling Pursuant to Section 621(5)(F) of the ORBIT Act*, 20 FCC Rcd 11366, 11380, ¶¶ 12-13, 26 (2005) ("*2005 Orbit*

Inmarsat was required to perpetuate for five years (until April 14, 2009) the favorable distribution arrangements which certain of its shareholders, including Vizada's predecessors-in-interest (Telenor and France Telecom) enjoyed as former Signatories. Specifically, to this day, Inmarsat Global is contractually required under those arrangements to sell its services only through an elite club of "distribution partners." In the case of "traditional" Inmarsat services,[5] entry into this "club" of distribution partners is effectively restricted to businesses that were part of the top tier of the Inmarsat distribution structure at the time of privatization. Under its current distribution agreements, Inmarsat may not sell its services directly to end user customers, or to the service providers who resell Inmarsat services they purchase from distribution partners. Moreover, Inmarsat's right to appoint additional distribution partners for its services is severely constrained by the exclusivity arrangements imposed by the former Signatories.[6] These restrictions on Inmarsat's ability to distribute its services benefit only the businesses established by former Signatories, including Vizada's predecessors-in-interest.

The last commercial step in Inmarsat's evolution from an IGO into a conventional telecommunications company will occur on April 14, 2009 with the expiration of both the contractual restrictions on distribution, and the bar on Inmarsat owning or controlling a

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Act Order") (determining that the acquisition of over 57% of the equity of Inmarsat by non-former-Signatories satisfied the requirements of the ORBIT Act).

[5] By "traditional," Inmarsat means the types of mobile voice and data services that Inmarsat historically provided before the launch of its Inmarsat-4 spacecraft. This term does not include the new generation of "BGAN" services (BGAN, FleetBroadband, SwiftBroadband) or Inmarsat's M2M, SPS or GSPS services.

[6] Any potential new distribution partner of these traditional services must also be a LESO, which requires significant investment in the construction and operation of an expensive gateway earth station facility that "lands" those services, and also must meet a number of other threshold qualification criteria. To be qualified, an entity may not do what is common in the telecommunications industry and simply lease access to an existing gateway facility.

distributor of Inmarsat services—both restrictions imposed on Inmarsat by its shareholders during the ORBIT Act-mandated privatization process.[7]

Significantly, these contractual restrictions will finally and automatically expire on April 14, 2009, whether or not the proposed Stratos transaction ever closes. Once these restrictions expire, (i) Inmarsat may sell its services directly to end users, (ii) Inmarsat will have more latitude to appoint a greater number of distributors of its services, and (iii) Inmarsat will have greater operational flexibility in the provision of its services, in particular, it will be able to offer an end-to-end network for its traditional services.[8] Inmarsat is in negotiations with Vizada and a number of other potential distributors to sell Inmarsat services after April 14, 2009. After that date, Inmarsat fully intends to support a robust, global, value-added distribution network that includes a variety of third party distributors, to ensure that Inmarsat continues to meet the needs of its end-users in an efficient and timely manner. As such, after the expiration of the legacy distribution agreements, Inmarsat users will have more ways to purchase Inmarsat services than ever before, and also will have the benefit of a more efficient distribution structure which is intended to deliver high value and service innovation to those users in a timely fashion.

One critical component of the existing distribution framework that will end on April 14, 2009 is a volume discount program that has come to favor disproportionately the businesses established by former Signatories (particularly as those businesses have been consolidated) over the businesses of new distribution partners. As Inmarsat publicly announced in its March 2008 earnings presentation (excerpt attached as Attachment H to Vizada's Petition to Deny), Inmarsat intends to make volume discounts more widely available to its distributors at

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[7] *See Stratos-Trust Order*, 22 FCC Rcd at 21331, ¶ 9.

[8] Specifically, Inmarsat will not be required to "land" its traditional services through a gateway facility owned by one of its distributors. Rather, Inmarsat could use its own facilities or the facilities or any third party teleport operator.

lower volume thresholds, and also to ensure that some of the current volume discounts are allocated toward lower prices to end-user consumers of Inmarsat services. Thus, it is Inmarsat's stated intention, once the legacy distribution agreements expire, that the "winners" will be the increased number of Inmarsat distributors who will be eligible for the new volume discount program, and the end-user consumers who can be expected to enjoy lower retail prices.

In sum, the expiration of the current distribution agreements will break down the PTT-legacy walls that currently prevent Inmarsat from operating in the same manner as every other satellite company—freely choosing its distributors and deciding when it makes business sense to sell services directly to consumers.

III. INMARSAT'S VERTICAL INTEGRATION POSES NO COMPETITIVE CONCERNS AND IN FACT FURTHERS THE PUBLIC INTEREST BY ENHANCING EFFICIENCY

As detailed above, after April 14, 2009, Inmarsat will be able to sell directly to end-user customers and freely contract with third-party distributors for the first time. The proposed acquisition of Stratos will provide Inmarsat with the benefits of an established distribution network, and thereby allow Inmarsat to achieve the benefits of vertical integration more quickly than if Inmarsat built its own distribution arm "from scratch." The acquisition of Stratos will allow Inmarsat to provide its services more efficiently than before, and thereby enhance competition in the marketplace.

A. The Commission Already Has Rejected the Substance of Vizada's Arguments

Just eight months ago, the Commission considered and rejected Vizada's arguments concerning what Vizada, at the time, termed "the competitive risks created by vertical

integration."[9] Vizada had argued that Inmarsat's interest in Stratos (by virtue of the option Inmarsat Finance holds, and the financing it provided to fund the acquisition of Stratos) would provide Inmarsat the incentive to "favor" Stratos over other Inmarsat distribution partners (such as Vizada), by giving Stratos access to satellite capacity, network capabilities and service enhancements on more favorable terms.[10] Vizada also argued that this alleged discrimination would prevent distribution partners from introducing "new options" to consumers, because those distribution partners might not be able to enjoy service terms comparable to those of Stratos.[11] The Commission considered and rejected Vizada's arguments.

As an initial matter, the Commission determined last December that "[g]iven the availability of alternative mobile satellite capacity, Inmarsat is not a monopolist in the supply of mobile satellite capacity for international mobile satellite services."[12] The Commission also recognized "the differentiated nature of mobile satellite services in terms of coverage, service attributes, availability and pricing."[13]

This market of international mobile satellite services is consistent with the market definition the Commission consistently has used in the MSS context.[14] It is also consistent with

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[9] Petition to Deny of Vizada Services LLC, WC Docket No. 07-73, at 29 (filed June 29, 2007) ("Vizada 2007 Petition to Deny").

[10] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62.

[11] Vizada 2007 Petition to Deny at 26.

[12] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 63.

[13] *Id.*

[14] *See Vodafone Americas Asia, Inc. (Transferor), Globalstar Corporation (Transferee); Consent to Transfer Control of Licenses and Section 214 Authorizations and Petition for Declaratory Ruling Allowing Indirect Foreign Ownership*, 17 FCC Rcd 12849, 12867, ¶¶ 54, 55 (2002) (finding the market to consist of MSS services generally, and MSS space segment services specifically with respect to the satellite operator); *see also Motient Services Inc. and TMI Communications and Company, LP (Assignors) and Mobile Satellite Ventures Subsidiary LLC (Assignee)*, 16 FCC Rcd 20469, 20477-78, ¶ 24 (2001).

Vizada's own assertion in 2006—in the context of the antitrust review of the combination of the MSS businesses of Telenor and France Telecom, creating Vizada—that the market should be defined even more broadly as: "worldwide," "two-way satellite communications services."[15] In that context, Vizada further asserted:

> It would therefore be inappropriate to define the market depending on the respective satellite operators. Almost all of the applicable satellite operators operate satellites in geostationary orbits servicing large regions worldwide. They offer an identical "product" – transponder capacity and airtime for communication . . . .[16]

Indeed, as Vizada asserted to this Commission less than two years ago in the same context, the satellite services market in which it operates is subject to "robust competition."[17]

Last December, the Commission also recognized the public benefits of the vertical integration of Stratos with Inmarsat. For example, the Commission found that "if Inmarsat ultimately exercises the Call Option and acquires Stratos Global . . . Inmarsat would be able to offer both wholesale and retail satellite services to its customers, and realize the recognized economic efficiencies that vertical integration can offer."[18] The Commission further

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[15] Complete Notification – Inceptum 1 AS' Acquisition of Telenor Satellite Services AS (filed Dec. 12, 2006), at 9 (submitted to the Norwegian Competition Authority) ("Vizada NCA Notification"), attached as Exhibit 1. Inceptum, now known as "MobSat," is one of Vizada's parent companies. For ease of reference, Inmarsat's use of "Vizada" includes Vizada's parent companies.

[16] *Id.* at 7. Vizada also appropriately acknowledged the existence of Iridium and Globalstar in this market. *Id.* at 7 n.4. In any event, the relevant market certainly is not, as Vizada now inconsistently asserts, services that meet the following seven-part criteria: (i) geographically ubiquitous global coverage, (ii) high data throughput (*e.g.*, 128 kbps plus), (iii) weather-insensitive, (iv) certified for providing safety at sea and in flight, (v) reliably delivered, (vi) provided by a firm with a long and dependable performance record, and (vii) provided by a firm with a stable financial condition. Vizada Petition to Deny at 3.

[17] Telenor ASA and Inceptum 1 AS, Consolidated Application for Consent to Transfer of Control and Petition for Declaratory Ruling, IB Docket No. 06-225, at 12 (filed Nov. 29, 2006).

[18] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62.

found that "[s]uch a change in business organization could improve coordination between the deployment and assignment of satellite capacity and the sales and marketing of retail satellite services."[19]

When it previously was expedient for Vizada to do so, Vizada, in fact, endorsed this same position, arguing that Inmarsat's "future strategy"[20] of vertical integration would be pro-competitive:

> The obvious competitive response from Inmarsat's distributors (satellite service providers and resellers of Inmarsat services) is thus to offer and promote alternative services based upon alternative platforms and technology and to compete with the current Inmarsat services. It seems that this development will lead to increased and further workable competition among distributors and satellite platforms.[21]

As noted below, Vizada currently is doing just that—selling both fixed satellite service VSAT products and alternative mobile satellite services in direct competition with Inmarsat.[22] Vizada's position here is thus flatly inconsistent with these prior representations both to the Commission and to another regulator.

In approving the transfer of control of Stratos to the trust, the Commission also expressly found that the vertical integration of Inmarsat and Stratos would not raise countervailing competitive concerns. That is, the Commission determined that "in the event that Inmarsat were to decide to acquire Stratos Global, it would also be unprofitable over the longer term for a vertically integrated Inmarsat and Stratos to engage in [anticompetitive] conduct."[23]

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[19] *Id.*

[20] Vizada NCA Notification at 17.

[21] Vizada NCA Notification at 17-18.

[22] *See infra* at 13-15.

[23] *Stratos-Trust Order*, 22 FCC Rcd at 21356, ¶ 63. Vizada's claim that the Commission did not consider the "post-April 2009 integration of Inmarsat and Stratos," Vizada Petition to

Moreover, the Commission concluded that "possible behavioral incentives resulting from this transaction and described above will not induce anticompetitive effects disadvantaging . . . end-user customers."[24] Thus, market forces (*i.e.*, "the current structure of the international mobile satellite industry and the availability of alternative vendors for both mobile satellite space segment and the retail distribution of mobile satellite services"[25]) will ensure that the vertical integration of Stratos with Inmarsat "will not augment the market power of either Stratos Global or Inmarsat."[26]

In dismissing Vizada's concerns about Inmarsat's incentive to "disfavor" Vizada, the Commission characterized Vizada's arguments as an attempt to protect a competitor, rather than preserve competition for the benefit of end-user consumers: "We view [Vizada's] alleged harms from the point of view of possible effects on industry competition and consumer welfare and *not* simply the possible effects on individual *competitors*."[27]

The marketplace is at least as competitive today as it was eight months ago, and the proposed change in the ownership structure of Stratos has no impact whatsoever on Inmarsat's (or Stratos') lack of market power. For these reasons, the Commission's prior findings remain just as valid in considering the second step of this transaction as they were in approving the first step.

Deny at 17, n.18, thus is wrong. As noted above, the Commission considered the impact of the future vertical integration of the two companies and determined that the market would remain competitive.

[24] *Stratos-Trust Order*, 22 FCC Rcd at 21356, ¶ 64.

[25] *Id*.

[26] *Id.* The Commission rested its substantive determination on Inmarsat's and Stratos' lack of market power, and not on the non-discrimination provision in the current distribution agreements, as Vizada asserts. *See* Vizada Petition to Deny at 12.

[27] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62 (emphasis supplied).

B. The Marketplace Will Remain Competitive After the Proposed Transaction

As detailed above, the Commission has recently recognized that Inmarsat faces vibrant competition from other providers of communications services. The appropriateness of using the Commission's broad market definition again in this case is reinforced by the fact that competition in the marketplace continues to intensify, and will continue to do so after the proposed transaction. FSS alternatives are a significant source of competition to all MSS providers. In fact, Vizada itself recognizes this, arguing two years ago that "MSS services are thus today perfect substitutes to VSAT [*i.e.* FSS] services,"[28] and asserting that:

> [C]ustomers' price awareness leads them to switching between MSS and VSAT solutions, depending on which system is the most economically advantageous.
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> * * *
>
> VSAT-based solutions are attractive both in terms of its [sic] original capability to carry high bandwidth and its [sic] increased mobility caused by the development in [sic] VSAT equipment becoming more and more mobile.[29]

This is true because spectrum deregulation and advances in antenna technology allow FSS providers to offer services that once were available on a broad scale only from MSS providers.[30] For example, FSS systems are being deployed on ships and airplanes to provide voice and broadband connectivity to both passengers and crew over satellite networks with

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[28] Vizada NCA Notification at 8.

[29] *Id.* at 8-9.

[30] *See, e.g., Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925–6425 MHz/3700–4200 MHz Bands and 14.0–14.5 GHz/11.7–12.2 GHz Bands*, IB Docket No. 02-10, Report and Order, 20 FCC Rcd 674 (2005); *Service Rules and Procedures to Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to Fixed Satellite Service*, Notice of Proposed Rulemaking, 20 FCC Rcd 2906 (2005); *Amendment of Parts 2 and 25 of the Commission's Rules to Allocate Spectrum and Adopt Service Rules and Procedures to Govern the Use of Vehicle-Mounted Earth Stations in Certain Frequency Bands Allocated to the Fixed- Satellite Service*, Notice of Proposed Rulemaking, 22 FCC Rcd 9646 (2007).

global coverage. In fact, Vizada is one of many satellite services providers to offer, *in direct competition with Inmarsat*, earth station on vessel ("ESV") service in FSS bands at speeds of up to 8 Mbps and with global coverage.[31] Similarly, competition for aeronautical broadband services using FSS bands is growing[32] at a time when demand for in-cabin passenger connectivity also is gaining momentum.[33] Moreover (and contrary to what Vizada would have

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[31] *See* Sealink product description, attached as Exhibit 2; *see also, e.g.*, Vizada Services, Inc., FCC Call Sign WB36 (authorizing ESV service); Press Release, *Vizada Strengthens Offering in Asia-Pacific Through Thuraya Coverage Extension* (June 16, 2008) *at* http://www.vizada.com/misc/filePush.php?mimeType=application/pdf&fullPath=http://www.vizada.com/files/2/67/Thuraya_Asia_FINAL.pdf ("Vizada-Thuraya Press Release"); Press Release, *SeaMobile Signs First Commercial Shipping Customer* (Sept. 11, 2007) *at* http://www.seamobile.com/press/09_11_07.aspx; Press Release, *Marlink Enters into Agreements with Springfield Shipping and Shell* (June 5, 2003) *at* http://www.marlink.com/fullstory.aspx?m=10&amid=2029; *see also* Press Release, *CapRock Launches New Broadband VSAT Service for Commercial Maritime Market* (Apr. 4, 2007) *at* http://www.caprock.com/press/archive_2007/newspr070404.htm; Press Release, *Having SEVSAT and TVRO from Ship Equip on Board Really Elevates the Spirit* (June 2008) *at* http://www.shipequip.no/download.aspx?object_id=C38565ECEF754A90B682042162866B88.

[32] *See, e.g., ViaSat, Inc., Application for Blanket Authority for Operation of 1,000 Technically Identical Ku-Band Aircraft Earth Stations in the United States and Over Territorial Waters*, 22 FCC Rcd 19964 (2007); *ARINC Incorporated, Application for Blanket Authority for Operation of Up to One Thousand Technically Identical Ku-Band Transmit/Receive Airborne Mobile Stations Aboard Aircraft Operating in the United States and Adjacent Waters*, 20 FCC Rcd 7553 (2005). Row 44 is yet another company seeking to provide aeronautical services in FSS bands. *See* IB File No. SES-LIC-20080508-00570 (filed May 8, 2008). *See also, e.g., Raysat Antenna Systems, LLC, Application for Authority to Operate 400 Land Mobile-Satellite Service ("LMSS") Earth Stations in the 14.0–14.5 GHz and 11.7–12.2 GHz Frequency Bands*, 23 FCC Rcd 1985 (2008).

[33] Sholnn Freeman, *WiFi Nearing Takeoff*, *Washington Post*, Aug. 6, 2008, at D1 (noting plans by a number of airlines to launch in-cabin Wi-Fi, including Alaska Airlines and Southwest, who are working with Row 44 to deploy FSS-based services). Considering the current surge in interest in providing data services to aircraft, the termination two years ago of Boeing's consumer high-speed data aeronautical program is irrelevant, and indeed it appears that Boeing's foray into aeronautical passenger connectivity service has laid the groundwork for others. *Cf.* Vizada Petition to Deny at 24. It is also worth noting that Boeing has re-branded the Connexion service, focusing on service to the U.S. Air Force. Press Release, *Boeing Awarded $30 Million U.S. Air Force Contract to Provide Continued Broadband*

the Commission believe),[34] the U.S. government not only enjoys competitive alternatives to Inmarsat services that are available from third party communications providers, but also is developing its own, self-provisioned, high-data-rate satellite networks.[35]

As it has for many years, Inmarsat also faces robust competition from MSS providers, including Iridium, Globalstar, MSV, Telecomunicaciones de Mexico, Informcosmos, Thuraya, Optus MobileSat, INSAT 3C, and N-Star. Even as Inmarsat continues to innovate, its competitors also are poised to introduce next-generation systems and services.[36] Iridium, MSV and Globalstar all are moving forward with plans to launch next generation satellite networks, all promising new mobile broadband offerings. Even over its existing system, Iridium recently announced double-digit growth,[37] and it is about to commercially launch its OpenPort product to deliver voice and 128 kbps data capabilities globally to maritime customers,[38] which Vizada is

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Communications Services (Aug. 14, 2007) *at* http://www.boeing.com/news/releases/2007/q3/070814a_nr.html.

[34] *Cf.* Vizada Petition to Deny at 23 (indicating that government users are "locked in" to Inmarsat services).

[35] *See, e.g.*, Justin Ray, *Military Communications Take 'Quantum Leap' with Launch*, *Spaceflight Now* (Oct. 10, 2007), *at* http://spaceflightnow.com/atlas/av011/ ("[Wideband Global SATCOM] will provide a quantum leap in communications coverage, capacity and connectivity for our Marines, Soldiers, Sailors and Airmen, and will become the Department of Defense's highest capacity communications satellite. ...What that means to our warfighters out in the field, they will be able to process, receive and transmit data quicker than ever." (ellipses in original)).

[36] *See* Vizada-Thuraya Press Release; Press Release, *Thuraya Unveils New Products at GITEX 2007* (Sept. 9, 2007) *at* http://www.thuraya.com/content/thuraya-unveils-new-products-at-gitex-2007.html; Press Release, *Globalstar Signs Contract with Hughes to Pave Way for Next Generation Advanced Satellite Services* (May 19, 2008) *at* http://www.globalstar.com/en/news/pressreleases/press_display.php?pressId=487; Press Release, *Iridium Selects Two in Competition for Design and Development Contract for 'Next' Constellation* (Aug. 4, 2008) *at* http://iridium.mediaroom.com/index.php?s=43&item=869 ("Iridium NEXT Press Release").

[37] Iridium NEXT Press Release.

[38] *Id.*

actively promoting as an alternative to Inmarsat.[39] Additional competition will be provided by ICO, which launched its 2 GHz MSS system earlier this year, and TerreStar, whose 2 GHz MSS system is scheduled for launch in 2009.

In order to stay competitive in this very robust marketplace by expanding its capabilities and service offerings, Inmarsat invested more than $1.5 billion in the new Inmarsat-4 satellite network, which provides innovative MSS services using some of the most advanced commercial communications satellites in orbit.[40] This fleet supports Inmarsat's Broadband Global Area Network ("BGAN") service, which provides voice and broadband service at speeds of almost 500 kbps, using highly portable and easily deployed "notebook sized" user terminals that are one-third the size, weight, and price of traditional Inmarsat terminals. The Inmarsat-4 technology also has enabled Inmarsat to develop its recent FleetBroadband and SwiftBroadband service offerings, which support broadband services to maritime and aeronautical end-user customers. The Inmarsat-4 fleet also supports Inmarsat's regional Satellite Phone Services product ("SPS") and its Global Satellite Phone Services ("GSPS") initiative, which will provide voice service to hand-held satellite phones globally, including in the United States.

Having completed deployment of the Inmarsat-4 network, Inmarsat now is creating opportunities to develop and launch even more advanced spacecraft over the next 10 years. Among other things, Inmarsat has a development contract for Alphasat, a satellite that would complement the Inmarsat-4 fleet and provide high power MSS over Europe and Africa, permitting further service innovation. Inmarsat also is in the early stages of planning for the

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[39] *See* Press Release, *Vizada to Offer Iridium OpenPort*^{SM} *Service Worldwide* (April 6, 2008), *at* http://www.vizada.com/1643_1.

[40] The third and final Inmarsat-4 satellite in as many years successfully was launched last week on August 18, 2008.

implementation of its next-generation Inmarsat-5 program. Furthermore, Inmarsat is pursuing an S-band MSS license over Europe in the pending EC application process.

The Commission consistently has recognized that Inmarsat's operations "serve the public interest by increasing competition and providing additional services for U.S. consumers,"[41] and that Inmarsat has "a positive impact on the domestic market . . . [and] on the global marketplace for communications services by ensuring increased competition and increased access."[42] The Commission also has recognized the significance of Inmarsat's continued investment in "new technologies for mobile satellite service customers."[43]

Inmarsat's continued investment in new technology and its deployment of new services are hardly the hallmarks of an alleged "dominant"[44] service provider whom Vizada asserts does not face effective competition in the marketplace. In fact, as shown above, Inmarsat users have more alternatives than ever, and Inmarsat faces more competitors and more robust competition.

IV. VIZADA'S OTHER ARGUMENTS ARE BASELESS

As noted above, much of Vizada's Petition is an attempt to re-litigate issues that the Commission decided last December. Where Vizada does not merely rehash arguments about the competitive landscape that the Commission already has rejected, Vizada makes other assertions that are equally unavailing. None of Vizada's arguments warrants denying or

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[41] *Comsat Corporation, Application for Authority Under Section 753(c) of the International Maritime Satellite Act and Section 214 of the Communications Act of 1934*, 16 FCC Rcd 21661, 21669, ¶ 1 (2001).

[42] *FCC Report to Congress As Required by the ORBIT Act*, FCC 08-152, at 20-21 (rel. Jun. 13, 2008).

[43] *Id.* at 20.

[44] *See* Vizada Petition to Deny at 2-3, 9, 13, 16, 20.

designating for hearing the Stratos Application, or any of the other relief that Vizada seeks to have imposed on Inmarsat.

A. Vertical Mergers Such As This Transaction Are Pro-Competitive

As the applicants have explained, Inmarsat's vertical integration with Stratos, by definition, is expected to enhance efficiency and thus produce substantial benefits for consumers.[45] Indeed, the efficiency-enhancing potential of vertical transactions is well established in both Commission precedent and economic literature.[46] Accordingly, antitrust officials have urged regulators "to exercise caution in taking actions against vertical transactions to avoid chilling efficiency-enhancing mergers that pose little risk of harm to competition."[47] In fact, two leading economists have concluded that "many if not most vertical mergers are either procompetitive or competitively neutral."[48]

As detailed above, the Commission already has recognized that these virtues of vertical integration would extend to Inmarsat's acquisition of control of Stratos,[49] and Vizada

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[45] *See* Stratos Application, Narrative at 6-8.

[46] *See, e.g.*, Stratos Application, Narrative at 7-8 (citing Commission precedent); Bork, *The Antitrust Paradox* 227 (1993) ("Vertical mergers may cut sales and distribution costs, facilitate the flow of information between levels of the industry (for example, marketing possibilities may be transmitted more effectively from the retail to the manufacturing level, new product possibilities may be transmitted in the other direction, better inventory control may be attained, and better planning of production runs may be achieved), create economies of scale in management, and so on.").

[47] Steven Sunshine, "Vertical Merger Enforcement Policy," Address before the American Bar Association, April 5, 1995.

[48] Riordan and Salop, 63 *Antitrust Law Journal* 513, 519 (1995).

[49] *See Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62 & n.195 ("In general, efficient vertical integration tends to lower various transaction costs relative to reliance on arm's-length market contracting to acquire certain inputs of production, such as the retail distribution services provided by Stratos Global as an independent distributor of satellite services.") (citing Oliver E. Williamson, *The Economic Institutions of Capitalism* (New York: The Free

does not appear to disagree.[50] Accordingly, the proposed transaction is entitled to a presumption that it will yield important efficiencies that will in turn benefit the public interest. Vizada's attempt to show that there are countervailing harms is unsubstantiated as a matter of law and as a matter of fact.

B. Vizada Mischaracterizes the Relevant Standard of Review

Vizada skews its analysis at the outset by misstating the applicable analytical legal framework. As the applicants have explained and the Commission has acknowledged, the Commission must evaluate this transaction by employing a "balancing test," weighing the potential harms against the potential benefits "to ensure that, on balance, the proposed transaction will serve the public interest."[51] In particular, as noted above, the Commission views alleged harms "from the point of view of possible effects on industry competition and consumer welfare and *not* simply the possible effects on individual *competitors*,"[52] such as Vizada.

Vizada incorrectly frames "the Commission's test" as whether the transaction "will accelerate the decline of market power by dominant firms."[53] The Commission has considered such a factor in mergers involving entities regulated as dominant, consistent with the 1996 Act's policy "that competition leading to deregulation, rather than continued regulation of

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Press, 1985), Chapter 4; Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization*, 2d ed. (New York: Harper Collins, 1994), Chapter 13).

[50] Vizada instead claims that any benefits of vertical integration here are somehow negated by Inmarsat's ability to extend its alleged "market power" to harm competition downstream at the retail level, *see, e.g.*, Vizada Petition to Deny at 16, an argument that rests on the false premise that Inmarsat has such market power to begin with, a point rebutted above.

[51] Stratos Application, Narrative at 6 (citation omitted); *Stratos-Trust Order*, 22 FCC Rcd at 21339, ¶ 27.

[52] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62 (emphasis supplied); *see also Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962) (the antitrust laws were enacted for the protection of "*competition*, not *competitors*" (emphasis supplied)).

[53] Vizada Petition to Deny at 1, 16.

dominant firms, shall be the preferred means for protecting consumers."[54] But Inmarsat is not regulated as a dominant carrier. In fact, as noted above, the Commission has determined that Inmarsat does not even possess the market power needed to harm competition. Thus, the analytical factor on which Vizada most heavily relies throughout its Petition[55] is entirely irrelevant in this context.

C. Vizada's Concerns Are Not Transaction Specific

In applying its balancing test, the Commission consistently has stated that it will consider only those harms that "aris[e] from" the transaction in question.[56] In contrast, Vizada's allegations of harm, apart from being unsupported, are premised entirely on circumstances that are *independent of this transaction*. Accordingly, those circumstances should have no bearing whatsoever on the Commission's analysis.

Vizada makes clear that its core concern relates to the imminent expiration of the legacy distribution arrangements of which Vizada has been an entrenched beneficiary, and one of the primary beneficiaries.[57] As discussed above, however, those changes will occur on April 14, 2009 regardless of the Commission's consideration of this transaction. This second step of the

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[54] *See, e.g.*, *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from MediaOne Group, Inc., Transferor, to AT&T Corp., Transferee*, 15 FCC Rcd 9816, 9821, ¶ 10 (2000) (citing *Applications of NYNEX Corp. Transferor, and Bell Atlantic Corp. Transferee, for Consent to Transfer Control of NYNEX Corp. and Its Subsidiaries*, 12 FCC Rcd 19985, 20035 ¶ 95 (1997)).

[55] *See, e.g.*, Vizada Petition to Deny at 1-2, 16.

[56] *Verizon Communications Inc., Transferor, and América Móvil, S.A. de C.V., Transferee*, 22 FCC Rcd 6195, 6205, ¶ 22 (2007); *see also Applications of WWC Holding Co., Inc., and RCC Minnesota, Inc.; For Consent to Assignment of Licenses*, 22 FCC Rcd 6589, 6598, ¶ 17 (2007) (noting the Commission's practice of "assessing any potential harms associated with a proposed transaction"); *News Corp. and The DirecTV Group, Inc., Transferors, and Liberty Media Corp., Transferee, For Authority to Transfer Control*, 23 FCC Rcd 3265, 3279, ¶ 26 (2008) (reiterating the Commission's frequent holding that it "will impose conditions only to remedy harms that arise from the transaction (*i.e.*, transaction-specific harms)").

[57] *See, e.g.*, Vizada Petition to Deny at 5, 9-10.

Stratos transaction is simply about the manner and speed with which Inmarsat will be able to implement certain proposed efficiency gains through a direct sales channel. It is step towards, but is only one element of, Inmarsat's plans to develop a powerful, entrepreneurial, competitive and value-added distribution channel to market Inmarsat services in the twenty-first century. To this end, as early as November 2006, Inmarsat notified all of its distributors that it would not continue that anachronistic distribution structure for *any* of its distributors after April 14, 2009, and that it instead would adopt new business practices that both would reflect the elimination of those contractual restrictions and would benefit end-user consumers as well as a wider array of distributors.

Vizada's portrayal of such announcements as evidence that Inmarsat somehow will exploit its alleged "market power" after this transaction is both misguided and a distortion of the facts.[58] As an initial matter, Inmarsat's acquisition of one of its distributors does not provide Inmarsat with any more "power" as a supplier of international satellite capacity, because Stratos is merely a reseller of such capacity.

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[58] Vizada egregiously mischaracterizes an Inmarsat presentation by claiming that "Inmarsat warned that it would restrict Stratos from 'signing major service providers directly.'" Vizada Petition to Deny at 10, and Attachment B (excerpt from the Inmarsat presentation). To the contrary, Inmarsat did not suggest to Stratos or its shareholders that there would be a restriction *on Stratos* selling to major service providers (distributors who purchase from LESOs). Instead, Inmarsat stated that its negotiating position for renewal of the distribution agreements would be to remove the restriction *on Inmarsat* "signing major service providers directly." *See id.* at Attachment B.

In fact, Vizada's speculation that Inmarsat improperly will use this market power (which Inmarsat does not have) to discriminate against targeted distributors and raise prices to consumers[59] is rebutted by the very earnings presentation Vizada cites.[60] What Inmarsat's Chairman and CEO actually said was:

> [W]e're absolutely focused on putting the discount where it belongs, both in reduced prices to customers, which should have a certain elasticity to it, in keeping the [distribution] channel healthy with discount that's spread in a more even way to some of the more smaller distributors, and some of it is going to come back to us where it was originally intended to go.[61]

Thus, Inmarsat's stated business plans do not favor one distributor over another. Those plans are to (i) use a variety of third party distributors in order to meet the needs of the hundreds of thousands of Inmarsat end-users, and (ii) extend to more distributors and to consumers those benefits previously enjoyed by only a few legacy distribution partners.

For these reasons, Inmarsat anticipates that Vizada will be negotiating a new distribution agreement on an equal footing with other potential Inmarsat distributors. To the extent Vizada remains concerned about the particulars of any deal it may negotiate with Inmarsat, that is purely a contractual matter that Commission policy provides should be handled privately, rather than being swept into a proceeding initiated to assess whether a transaction such as this is in the public interest.

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59 *See id.* at 37.

60 *See, e.g.*, *id.* at 36-37 & n.50. While Vizada laments the reduction of "the volume discounts going to [Inmarsat's] primary distributors, Vizada and Stratos," *id.* at 36 n.50, Inmarsat in fact plans to make those discounts available to more distributors at lower thresholds.

61 A. Sukawaty, Preliminary 2007 Inmarsat plc Earnings Presentation, March 6, 2008, Thomson StreetEvents Transcript, excerpt provided in Vizada Petition to Deny, Attachment H. Inmarsat intends to spread the current volume discount among (i) end-user discounts (~ one-third); (ii) distributor discounts (~ one-third); and (iii) funds retained by Inmarsat, facilitating further investment and innovation (~ one-third). *Id.*

Vizada's other allegations concerning Inmarsat's conduct likewise are not related to this transaction, and in any event are factually incorrect. While Inmarsat does not believe it necessary to engage on the minutiae of each of Vizada's mischaracterizations here, Inmarsat concedes neither any of Vizada's allegations with respect to Inmarsat's prior conduct, nor Vizada's bald speculation related to Inmarsat's future conduct.[62] Inmarsat's operational decisions with respect to its eleven spacecraft are, and will continue to be, driven by legitimate considerations, such as spectrum efficiency, network reliability, and meeting current and projected end-user demand.[63] Successful operation of any multi-satellite fleet that serves competing end-user demands requires dynamic decision-making and constant operational review, and sometimes requires changes from the original plan. Moreover, other Inmarsat LESOs, not just Vizada, have had to modify their operations when third parties stopped

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[62] *See, e.g.,* Vizada Petition to Deny at 37-40 & nn.51-55.

[63] For example:

(i) Inmarsat began preparations to move certain Closed User Group ("CUG") services onto an I-3 spacecraft at 142º W.L. to enable it to meet projected end-user demand. When the projected end-user demand did not materialize at 142º W.L., Inmarsat instead decided to use the I-3 satellite at another location (25º E.L.) where a demand for CUG services existed. *Cf. id.* at 38 n.52. Each of Vizada and Stratos has earth station facilities positioned to offer CUG services at 142º W.L. Vizada's FCC earth station license for operations with the spacecraft at 142º W.L. does not bestow it with a "commercial or strategic" advantage, especially when Stratos could access that spacecraft from a non-U.S. earth station facility, as Vizada acknowledges, *id.,* and other distributors could get an FCC license similar to Vizada's.

(ii) The information that Vizada seeks, *see id.* at 39 n.54, is proprietary to SITA, a customer of both Vizada and Stratos. Inmarsat is negotiating an agreement to license that information, and intends to provide that information to both companies as quickly as possible once negotiations with SITA are successfully completed. Unfortunately, Vizada's competitive actions vis-à-vis SITA have slowed Inmarsat's efforts to obtain SITA's agreement.

(iii) The Change Notices that Vizada raises, *see id.* at 39 n.55, had their genesis with a manufacturer who no longer was supporting existing equipment that had maintenance issues which threatened network reliability. Inmarsat was seeking to ensure that the associated network facilities would be able to appropriately support the demands of end-user customers.

supporting existing hardware, or when end-user demand required Inmarsat to implement certain reconfigurations of its network.

In short, Vizada is unable to identify any valid transaction-specific harms, much less a bundle of transaction-specific harms that would outweigh the efficiencies and other benefits that consumers can be expected to obtain following the vertical integration of Stratos with Inmarsat.

D. Even Looking Beyond the Effects of This Transaction, Vizada Does Not Demonstrate Any Competitive Harm

If the Commission were to consider circumstances independent of this transaction, as Vizada would prefer, Vizada's challenge to this transaction still could not be successful. The Commission's finding in approving the first step of this transaction—combined with Inmarsat's ownership of Stratos having cleared the HSR process—undercut all of Vizada's theories of anti-competitive harm. And even if Inmarsat were deemed to have market power, Vizada has not demonstrated any harm to consumers.

Inmarsat would prefer to continue to distribute its services on a non-exclusive basis through Vizada because of Vizada's marketing expertise and relationships with important customers—provided that any continuation of that relationship can be achieved on commercially reasonable terms. That said, Vizada has not shown that Inmarsat has any *legal compulsion* to distribute its services through Vizada. Rather, Inmarsat, like other commercial entities, has broad freedom to decide with whom it wishes to contract and on what terms—a principle that guides the conduct of business in the rest of the satellite industry.[64] Preserving that freedom is in

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[64] *See, e.g.*, *Verizon Communications Inc. v. Trinko*, 540 U.S. 398, 408 (2004) (referencing "the long recognized right" of a business "freely to exercise its own independent discretion as to parties with whom [it] will deal") (citation and internal quotation marks omitted); *Monsanto Co. v. Spray-Rite Service Corp.*, 465 U.S. 752, 761 (1984) (a business "generally has a right

the interests of all consumers, as it allows providers to develop distribution channels and generally retain their flexibility to react to developments in a dynamic marketplace.

Vizada seeks to have the Commission upset that principle here by (i) speculating that Inmarsat may engage in price discrimination (for example, by changing its wholesale prices charged to Vizada or otherwise favoring Stratos)[65] and (ii) invoking prior vertical integration cases in which regulators intervened.[66] But those cases, in Vizada's words, involved "upstream supplier[s] with market power"[67] (which, as discussed, Inmarsat is not) as well as other exacerbating factors not present here.[68] Vizada fares no better in its reliance on outdated jurisprudence discussing intra-brand competition,[69] as opposed to the *inter-brand* competition with which current jurisprudence is focused.[70] Moreover, it bears noting that Vizada did not

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to deal, or refuse to deal, with whomever it likes"). Regarding distribution contracts generally, courts have recognized that a shift in distribution share among distributors of a given service does not constitute an injury to competition or consumers. *See, e.g.*, *Burdett Sound, Inc. v. Altec Corp*., 515 F.2d 1245, 1249 (5th Cir. 1975) ("[W]e reiterate that it is simply not an antitrust violation for a manufacturer to contract with a new distributor, and as a consequence, to terminate his relationship with a former distributor.").

[65] Vizada Petition to Deny at 35-41.

[66] *Id.* at 35-41 & n.56.

[67] *Id.* at 40.

[68] For example, the Sprint transaction that Vizada cites involved *de jure* monopolies in two countries and prompted a Justice Department enforcement action. *Sprint Corp. Petition for Declaratory Ruling Concerning Section 310(b)(4) and (d) and the Public Interest Requirements of the Communications Act of 1934, as amended*, Declaratory Ruling and Order, 11 FCC Rcd 1850, 1852, 1859, ¶¶ 13, 51 (1995). Similarly, the MCI-BT transaction on which Vizada also relies involved a Justice Department lawsuit, and was determined to raise competitive concerns in the United Kingdom with respect to network access. *Request of MCI Communications Corp., British Telecoms. Plc, Joint Petition for Declaratory Ruling Concerning Section 310(b)(4) and (d) of the Communications Act of 1934, as amended*, 9 FCC Rcd 3960, 3960, ¶ 5 (2004).

[69] Vizada Petition to Deny at 29 & n.36.

[70] As the Supreme Court has recently observed in overruling a 96-year-old prohibition on vertical price resale maintenance agreements: "Our recent cases formulate antitrust principles in accordance with the appreciated differences in economic effect between vertical

seem at all concerned with a reduction in "intra-brand competition" when it was rolling up Inmarsat distributors, and creating the current situation where two Inmarsat distribution partners control the distribution of approximately 80% of Inmarsat's services.[71]

In fact, Vizada produces no evidence that "intra-brand" competition under the existing distribution structure (including the outmoded volume discount program that disproportionately favors Vizada over others) would outweigh the benefits of Inmarsat's stated plans to increase the efficiency of its distribution structure, by (i) appointing more distributors, (ii) being able to sell direct, (iii) extending its end-to-end network to encompass its traditional as well as its next–generation services, and (iv) providing consumers lower prices and other expected benefits of vertical integration.[72] Moreover, there is no reason to assume that a continuation of the existing distribution arrangement (as Vizada seems to desire) would be efficient, given that this arrangement represents a continuation of privileges held by a distribution cartel that negotiated terms at a time when they controlled Inmarsat and used the opportunity to freeze the Inmarsat distribution structure in time and to perpetuate certain inefficiencies. Thus, there is no clear virtue in the outcome that Vizada advocates, particularly because, after April 14, 2009, Vizada for the first time will have to operate on an equal footing with all other potential distributors of Inmarsat services.

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and horizontal agreements . . . ." *Leegin Creative Leather Products, Inc. v. PSKS, Inc. dba Kay's Kloset . . . Kay's Shoes*, 127 S. Ct. 2705, 2714 (2007).

Vizada's argument about ancillary software that Vizada provides to support Inmarsat services, *see* Vizada Petition to Deny at 29 n.35, is not relevant to consumers, because it is merely a tool to allow the resellers to which Vizada wholesales to perform billing and activation-related activities. In any event, that function is in no way unique to Vizada.

[71] *See generally* Vizada NCA Notification; Consolidated Response of Inceptum 1 AS and Telenor ASA**,** IB Docket No. 06-225 (filed Feb. 1, 2007).

[72] Thus, Vizada's reference to Stratos statements about intra-brand competition are unavailing. Vizada Petition to Deny at 29-30.

Unable to show any actual competitive harms, Vizada is left to speculate about possible harms to consumers and mischaracterize what Inmarsat in fact said that it intends to do.[73] Significantly, in doing so, Vizada ignores a key fact that the Commission emphasized last December—that Inmarsat competes against other satellite service providers when offering Inmarsat's products.[74] Moreover, Vizada ignores the Commission's findings (noted above) concerning the efficiencies of Inmarsat's vertical integration with Stratos.[75] Efficiencies such as the elimination of double marginalization, combined with Inmarsat's ability to have a direct sales arm like its competitors, will enhance Inmarsat's continuing efforts to invest in bringing new and more efficient services and technology to consumers and will enable Inmarsat to compete more effectively with other satellite service providers—consequences that can only benefit consumers.[76] In this respect, it bears emphasis that the Commission already has recognized that Inmarsat's existing interest in Stratos "will not induce anticompetitive effects disadvantaging . . . end-user customers."[77] Nor is there a valid reason to believe that any such effects would arise once Inmarsat completes the second step of the Stratos transaction by acquiring indirect control over Stratos.

Finally, in support of its *speculation* about being foreclosed from wholesale access to Inmarsat services, Vizada cites cases from the cable and DBS context that considered

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[73] *See supra* at 20-21 & nn.58, 61.

[74] *Stratos-Trust Order*, 22 FCC Rcd at 21355-56, ¶¶ 63, 64.

[75] *See supra* at 7-11 (citing *Stratos-Trust Order*, 22 FCC Rcd at 21355-56, ¶¶ 63, 64).

[76] The reduction in the margin to "middleman" distributors, *see* Vizada Petition to Deny at 29, is of course the reduction/elimination of double-marginalization, which the Commission has found is an important economic efficiency that provides consumer benefits.

[77] *Stratos-Trust Order*, 22 FCC Rcd at 21356, ¶ 64.

the prospect of temporary or permanent foreclosure in that particular context.[78] Putting aside (again) the fact that Vizada's contractual rights after April 14, 2009 are not affected by this transaction, the cited cases are inapposite. In contrast to vertically integrated video providers that could withhold valuable programming from their MVPD competitors (which prompted Congress to require licensing of that content), whether and how Inmarsat distributes through Vizada has no conceivable impact on the ability of Inmarsat customers to choose from among a variety of satellite systems to meet their communications needs.

Thus, Vizada's arguments, once again, are not about protecting competition, but rather are about protecting Vizada.[79]

E. Vizada's Proposed Relief Is Inefficient and Anticompetitive

Because there is no demonstrable harm to competition arising from this transaction, there is no reason to adopt, or even consider, the conditions that Vizada proposes.[80] In any event, each specific remedy proposed by Vizada is flawed as a policy matter. First, requiring "structural separation" between Inmarsat and Stratos would subject both entities to enormous costs that would negate the efficiencies of the transaction—which is precisely why the Commission over time has abandoned this type of solution, even in cases involving companies that are regulated as dominant.[81] Vizada's additional call for assorted "non-discrimination

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[78] Vizada Petition to Deny at 32-34.

[79] *See Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62.

[80] Vizada Petition to Deny at 43-44.

[81] *See, e.g.*, *COMSAT Corporation Petition Pursuant to § 10(c) of the Communications Act of 1934, as amended, for Forbearance from Dominant Carrier Regulation and for Reclassification as a Non-Dominant Carrier*, 13 FCC Rcd 14083, 14165, ¶ 166 (1998) (finding that "Comsat's continued dominance in the provision of switched voice, private line and occasional-use video services in non-competitive markets is not sufficient reason to continue structural separation because the costs would exceed the benefits"); *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, 22 FCC Rcd

guarantees"—apart from resulting in an unprecedented combination of structural and nonstructural safeguards on a company without market power—is contrary to the Commission's finding last December that any "favoring" of Stratos over other distributors would not constitute impermissible discrimination.[82] Moreover, Inmarsat is committed to using third party distributors to market its services and, like its competitors, should be allowed to decide the terms on which it enters into those distribution arrangements. Indeed, the same competitive forces that affect Inmarsat's competitors will cause Inmarsat to evolve its distribution channel in a manner that enables its channel both to be efficient and to provide timely, relevant and value-added services.

Similarly, Vizada has not shown that the confidentiality provisions in any contractual agreements that may be negotiated with Inmarsat would be inadequate.[83] Like other telecommunications companies, Inmarsat has an interest in maintaining effective contractual safeguards to protect the proprietary information of all of its distributors, and thereby maintain a

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16440, 16479 ¶ 82 (2007) (finding that the structural safeguards under 47 U.S.C. § 272 "impose a variety of significant costs, including administrative costs on both the BOCs and the Commission"); *Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry*), 104 FCC 2d 958, 964, ¶ 3 (1986). Historically, the Commission has imposed structural separation requirements only on entities that were subject to rate regulation and that controlled a bottleneck, *see Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, 20 FCC Rcd 14853, 14868, ¶ 25 (2005)—circumstances that are not present here.

[82] *Stratos-Trust Order*, 22 FCC Rcd at 21355, ¶ 62.

[83] *See Hughes Communications, Inc.*, 12 FCC Rcd 7534, 7543, ¶ 28 (1997) (contractual protections concerning proprietary information sufficient); *see also Verizon Communications Inc. and MCI, Inc.; Applications for Approval of Transfer of Control,* 20 FCC Rcd 18433, 18510, ¶ 148 n.431 (2005) (to the extent parties are concerned about affiliates sharing confidential information, "they should be able to negotiate an appropriate arrangement with a competitive provider"); *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18290, 18370, ¶ 149 n.439 (2005) (same). The Justice Department already has cleared Inmarsat's ownership of Stratos, without any confidentiality restrictions. Whether the Justice Department imposed such requirements in prior unrelated and distinguishable transactions, as Vizada notes, is beside the point. *See* Vizada Petition to Deny at 42-43 & n.59.

vibrant and effective distribution force. Vizada's proprietary information is protected by existing confidentiality agreements, and any distribution agreements negotiated with Vizada and other distributors in the future will also contain safeguards that protect the confidentiality of such data, consistent with normal business practices.[84] Indeed, protections for proprietary information have already been proposed as part of Inmarsat's negotiations with its distributors in anticipation of new contractual arrangements that will apply after April 14, 2009. Inmarsat's commitment to maintain the confidentiality of sensitive distribution partner information is not only consistent with Inmarsat's historic practices, but also is driven by the normal practice of the marketplace.

Nor should the Commission heed Vizada's self-serving request that the Commission defer consideration of this transaction pending Inmarsat's execution of new agreements with "incumbent distributors generating at least 75% of [Inmarsat's] 2007 revenue."[85] To point out the obvious, that would require that Inmarsat execute a new distribution deal with Vizada, and thus would inappropriately provide Vizada with regulatory leverage in commercial negotiations that should be held, for the first time in Inmarsat's 30-year history, on an arm's-length, commercial basis.[86]

F. The Stratos Application Is Timely

Finally, Vizada is simply wrong when it argues that it is "premature"[87] for the Commission to consider an application for consent to a transaction that, subject to the receipt of

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[84] It is worth noting that, contrary to Vizada's suggestion (Vizada Petition to Deny at 42) Vizada and Inmarsat's other distribution partners do not share sensitive pricing information with Inmarsat today, and presumably would not do so in the future, either.

[85] *Id.* at 2; *see also id.* at 14.

[86] Vizada's attempt to justify this delay by analogizing its desire to negotiate a new contract with the statutory obligation of various governmental agencies to investigate and address national security issues is absurd. *Id.* at 14 n.11.

[87] *Id.* at 7-8.

governmental consents, is expected to close shortly after April 14, 2009. As an initial matter, that expected closing date is only *nine* months after the date of public notice of the Stratos Application. Providing the Commission nine months to consider the Stratos Application is fully consistent with: (i) the Commission's policy to process merger applications within six months[88] and the subsequent time the Commission typically provides to close a transaction involving Title III licenses;[89] and (ii) the time it took to process and grant the "step-one" application for consent to transfer control of Stratos to the trust. Moreover, processing the Stratos Application now would allow the trust to be dissolved, and the full benefits of vertical integration to be realized, promptly after April 14, 2009.

Nor should the Commission, as Vizada asserts, defer processing the Stratos Application pending resolution of another application filed by an independent third party. Harbinger's announcement that it might try to acquire Inmarsat (through SkyTerra) at some indeterminate point in the future has no relevance to the issues raised in this transaction.[90] Moreover, there is no agreement between Harbinger and Inmarsat; no tender offer has commenced or is planned; and no such transaction may ever arise. There is nothing in existence today other than a potential, non-binding interest expressed by one company to acquire another, with not even the offer price tabled.[91] There is no policy basis to halt the processing of a

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88 *Informal Timeline for Consideration of Applications for Transfers or Assignments of Licenses or Authorizations Relating to Complex Mergers*, *at http://www.fcc.gov/transaction/timeline.html* (visited August 24, 2008).

89 47 C.F.R. § 1.948(d) (providing 180 days for consummation with respect to terrestrial wireless licenses); *id.* § 25.119(f) (providing 60 days for consummation with respect to satellite earth station licenses).

90 *Cf.* Vizada Petition to Deny at 13.

91 That remains true even taking into account the FCC application that Harbinger and SkyTerra unilaterally have filed, seeking, among other thing, consent to acquire control of Inmarsat.

concrete transaction such as this one based on an expression of interest by a third party to pursue an unrelated transaction.

* * * * *

Vizada raises no substantive issue that the Commission has not already considered and rejected. Moreover, Vizada does not present any evidence of harm to competition (*i.e.*, to consumers) that would arise as a result of the proposed vertical integration of Stratos with Inmarsat. To the contrary, allowing Inmarsat to indirectly control Stratos would improve the efficiency of Inmarsat's MSS distribution and thereby allow Inmarsat to compete more effectively in a robust market. Inmarsat therefore urges the Commission to promptly deny the Vizada Petition and grant the Stratos Application, so that end users of Inmarsat services may realize the benefits of this proposed vertical integration as soon as possible after April 14, 2009.

Respectfully submitted,

/s/

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August 25, 2008

EXHIBIT 1

SCHJØDT

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Oslo, 12 December 2006
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Attorney in charge:
Jan Magne Juuhl-Langseth

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COMPLETE NOTIFICATION – INCEPTUM 1 AS' ACQUISITION OF TELENOR SATELLITE SERVICES AS

We refer to the standardised notification of 3 November 2006 regarding the above transaction and the Norwegian Competition Authority's ("NCA") request of a complete notification, dated 22 November 2006.

Please find below a complete notification of Inceptum 1 AS' ("Inceptum"), a wholly-owned subsidiary of Apax Partners SA ("Apax Partners"), acquisition of Telenor Satellite Services AS ("TSS").

By oral agreement, the Competition Authority eased the requirements for complete notification pursuant to Section 5 of the Regulation on notification of concentrations for the notifying party and also agreed that the complete notification can be submitted in the English language only.

It is clear that the concentration does not create or strengthen a significant restriction of competition contrary to the Norwegian Competition Act Section 16. Based on the fact that the concentration has marginal impact on competition in Norway, Inceptum has requested that the scope of this notification is limited according to Section 5 of the regulation on the notification of concentrations etc. and that the NCA finds that the notification is to be considered complete based on the information set out in the following. For the sake of completeness, the information in the standardized notification is to a large extent restated in this complete notification.

1. CONTACT INFORMATION

1.1 The notifying party

Name:	Inceptum 1 AS
Address:	Dronning Mauds gate 11, 0201 Oslo, Norway
Web-site:	N/A
Enterprise registration number:	990 362 688

Name:	Apax Partners SA
Address:	45, Avenue Kléber, 75784 Paris Cedex 16
Web-site:	www.apax.fr
Phone:	+33 1 53 65 01 40

Representative for the notifying party:

Name:	Advokatfirmaet Schjødt AS
Address:	Postboks 2444 Solli, 0201 Oslo
Contact person:	Advokatfullmektig Agnete Busengdal Sommerset and advokat Gro Bergeius Andersen
Phone:	22 01 88 00
Facsimile:	22 83 17 12
E-mail:	agnete.sommerset@schjodt.no and gro.andersen@schjodt.no

1.2 Other undertaking concerned

Name:	Telenor Satellite Services AS
Address:	Snarøyveien 30, 1331 Fornebu
Web-site:	www.telenorsatellite.com
Enterprise registration number:	983 928 412

2. DESCRIPTION OF THE CONCENTRATION

Apax Partners intends to acquire 100 % of the shares of Telenor Satellite Services AS (TSS) from Telenor ASA, Norway (Telenor). [redacted]. To this end the Apax Funds have set up a Norwegian acquisition vehicle, Inceptum 1 AS (Inceptum), which on 25 October 2006 concluded a 'Share Purchase Agreement' with Telenor according to which Inceptum will acquire all the issued shares of TSS.

The proposed transaction constitutes a concentration pursuant to Section 17 of the Competition Act. The proposed transaction does not come under the European Merger Control Regulation as the EU-thresholds are not met. Pursuant to the amendment of the regulation on notification of concentrations made by the Ministry of Government Administration and Reform of 29 November 2006, and which enters into force on 1 January 2007, even the Norwegian thresholds would not be met and thus there would have been no obligation to submit a notification of the transaction in the first place.

Other than Norway, the transaction is only subject to merger control in Germany due the low worldwide turnover of TSS. [redacted]

Annex 1: Share Purchase Agreement (SPA) between Inceptum and TSS

[redacted]

3. UNDERTAKINGS IN THE SAME CORPORATE GROUP AND UNDERTAKINGS CONCERNED

3.1 Apax Partners

Apax Partners is the management company of the investment fund Apax France VI and nine other investment funds. Apax Partners is indirectly controlled by Apax Partners SNC, which is in turn ultimately controlled by Mr. Maurice Tchénio. The latter further controls Apax Partners & Cie Gérance I and Apax Partners & Cie Gérance II, which are the managing General Partners of Altamir and Amboise respectively. Altamir and Amboise are listed investment companies whose purpose is to co-invest with the funds managed by Apax Partners. Both companies have no other activities. The Apax Group as described above thus holds interests in companies through several investment structures.

The Apax Group is composed of French venture capital companies that provide management advice to and manage investments on behalf of investment funds and investment companies, such as Apax France VI. Apax Group holds investments in the following sectors of industry and services: business and financial services, software and IT, retail and e-commerce, telecoms, media and communication, healthcare.

The Apax Group is totally independent from other existing Apax entities and investment funds in the world, as they are controlled and managed by different management entities with no form of coordination of business activities.

Further, the Apax Group controls Morgan International Ltd., which also has a small turnover deriving from Norway of [redacted] The combined turnover of

these undertakings thus exceeds the MNOK 5 threshold (applying until 31 December 2006).

For more information, please visit www.apax.fr.

In the telecommunication sector the Apax Group controls the following companies:

France Telecom Mobile Satellite Services (FTMSC). FTMSC, 16 Bd du Mont d'Est 93160 Noisy le Grand, France, is an international provider of two-way satellite communication services. It offers a wide range of voice, data and IP services and value added services via satellite to multi-sector professionals throughout the world where terrestrial based wire line and cellular services do not exist or operate poorly. FTMSC distributes satellite capacity provided by unaffiliated satellite operators and does not own or operate a satellite network.

Arkadin, 30, rue de Cambrai, 75019 Paris, France, is a global provider of integrated audio and data conferencing services.

DXO, 3 rue Nationale, 92100 Boulogne, France, is a provider of image processing solutions inter alia for digital camera phones.

Outremer Telecom, 14 boulevard Poissonnière, 75009 Paris, France, is a telecommunications operator in the French overseas departments which provides fixed-lined and mobile telephone solutions, Internet and data services.

Webraska Mobile Technologies, 22 rue Guynemer, 78602 Maisons-Laffitte, France, is a provider of satellite navigation software for mobile phones.

3.2 TSS

TSS is, until the completion of the transaction, wholly-owned by Telenor ASA. TSS has six subsidiaries; Telenor Satellite Networks AS (100%), Marlink SA (100%), Marlink AS (100%), Telenor Satellite Mobile Venture AS (100%), Telenor Satellite Services Asia Holding AS (100%) and World Wide Mobile Comm. AS (50%) (the subsidiaries, and their subsidiaries, are established throughout the world).[1]

TSS is a provider of communications solutions via satellite. TSS provides services based on both MSS and VSAT[2] technology to users at sea, in the air and on land.

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[1] For further information, see: https://www.telenorsatellite.com/index.cfm

[2] Very Small Aperture Terminal. An earth station, used for transmission of data, video, or voice via geo-stationary satellite, with a relatively small dish-antenna at sea and land.

TSS and its subsidiaries ('the TSS Group') offer the above described two-way satellite telecommunication services together with related services and applications utilizing satellite capacity together with network infrastructure, switching capabilities, IP technology and other technology platforms. TSS utilizes space-segment capacity procured from of third party satellite operators such as Inmarsat, Intelsat, New Skies Satellite, Thuraya, Iridium, Globalstar, SES Global and Eutelsat. TSS' ground network infrastructure includes its owned teleports/Land-Earth Stations (LESs) in Norway, the US, and mainland Europe, as well as leased facilities in Norway and Australia, and a global leased network connecting these and other locations.

TSS' services are offered either directly to the end-users through TSS Group retail operations or indirectly through a global network of distributors and agents, some of which are owned by TSS.

4. FINANCIAL INFORMATION

As stated above, Inceptum 1 AS was established in the autumn of 2006. No turnover may therefore be allocated to that company for the relevant fiscal year. Apax Groups' revenues in 2005 to Norwegian customers were [redacted]

In 2005, the Apax Group generated the following turnover with the companies it controls, excluding FTMSC:

Turnover of Apax Group in 2005	In million €	MNOK
Worldwide	[redacted]	[redacted]
European Union	[redacted]	[redacted]
Norway	[redacted]	[redacted]

In 2005, FTMSC achieved the following turnover:

Turnover of FTMSC in 2005	In million €	NOK
Worldwide	[redacted]	[redacted]
European Union	[redacted]	[redacted]
Norway	[redacted]	[redacted]

TSS' total operating profit before tax in 2005 was [redacted] TSS is not in a position to provide the operating profit isolated to its Norwegian activities.

[3] Calculation based on the European Central Bank's average exchange rate of 2005: €1 = NOK 8.0092

In its last financial year of 2005, TSS' turnover was as follows:

Turnover of TSS in 2005	in million €	MNOK
Worldwide	302	2,422
European Union	102.6	822.1
Norway	38.2	306.1

Additional information about TSS is available on its website at www.telenorsatellite.com.

In 2005, TSS and FTMSC generated the following turnover with the provision of two-way satellite communication services (all figures in EUR million, currency conversions were done according to the European Central Bank's average EUR/USD exchange rate for 2005 of EUR 1 = USD 1.2441):

	Worldwide	Norway
TSS	302	38.2
FTMSC	[redacted]	[redacted]

5. MARKETS AFFECTED BY THE CONCENTRATION

The proposed transaction concerns the satellite services industry where it leads to certain overlaps between the activities of TSS and Apax Partners' portfolio company FTMSC. However, the transaction does not create or strengthen a significant restriction of competition contrary to the Competition Act Section 16. There are thus no grounds for intervention.

Due to the comments received from Inmarsat in its letter to the NCA dated 24 November 2006, we have included a section particularly addressing the issues brought forward by that third party (c.f. 8.5 below). However, it is important to note immediately that Inmarsat has arbitrarily limited, within the relevant market for two-way satellite services, its biased analysis to only one type of services (i.e., only the "traditional" Inmarsat Existing & Evolved (E&E) services based on satellite capacity from Inmarsat itself), and to only one type of users of two-way satellite services (i.e. the maritime customers), ignoring all the substitutes existing on the relevant market and all the other customers.

5.1 The relevant product market

Within the satellite services industry a first distinction has to be made, vertically, between the provision of transponder capacity ('raw capacity') on one hand, and the provision of two-way satellite communication services on the other hand. Further, satellite services are generally used for either broadcasting purposes (one-way communication) or

communication purposes (two-way communication). Satellite broadcasting services are not part of the relevant market.

Unlike Inmarsat and the other satellite operators, neither TSS nor FTMSC own or operate any satellites. Thus, the market for provision of transponder capacity is not affected by the present transaction.

Rather, the activities of TSS and FTMSC are confined to the provision, to resellers and end-customers, of end-to-end communication services via satellite including voice, data and IP as well as value added services, e.g. pre-paid or messaging solutions. In order to provide these services to their customers, the parties purchase transponder capacity from third party satellite operators, add, for some of them, ground station and infrastructure services, and sell the communication services package, either directly to end-customers or through resellers.

The parties submit that the case at hand should be assessed on the basis of a product market for the provision of two-way satellite communication services. The geographic market is global (cf. 5.2 below).

First, it is not appropriate to distinguish between the different locations where the satellite communication services are used by the customers, i.e. maritime, land or aeronautic. Most of the global satellite service providers offer satellite communication solutions for each of the afore-mentioned application areas. Second, the technical basis for the provision of the satellite communication services is mostly identical irrespective of where they are used in the world. Third, there are hardly any price differences between the different segments.

Two-way satellite communication services utilize transponder capacity from numerous satellite operators. It would therefore be inappropriate to define the market depending on the respective satellite operators. Almost all of the applicable satellite operators operate satellites in geostationary orbits servicing large regions worldwide.[4] They offer an identical "product" - transponder capacity and airtime for communication - to satellite service providers, which then combine this raw capacity with ground network services and value added services in order to provide a two-way satellite communication service to resellers and end-users. Typically, satellite service providers access transponder capacity or airtime on several satellite systems to accommodate the users in the marketplace.

[4] Please note that the Iridium satellites are not in a geostationary orbit, but are so-called Low Earth Orbiting satellites. Globalstar uses satellites below geostationary orbit in Medium Earth Orbit.

Finally, no differentiation should be made between the MSS and VSAT services for communication via satellite. From a technical point of view satellite communication uses different frequencies in the electromagnetic spectrum of the transponder. Basically, communication services can be provided over L-band (1.5 – 1.6 GHz), C-band (4-8 GHz) and Ku-band (11-14 GHz). The C- and Ku-band technologies are commonly known under the term 'very small aperture terminal' (VSAT) and 'fixed satellite services' (FSS), whereas the L-band technology is sometimes referred to as 'mobile satellite services' (MSS). However, VSAT solutions are also mobile and MSS solutions can also be fixed, e.g. via a high-gain fixed antenna. The term MSS is therefore too undifferentiated and is only used for the sake of simplicity.

As a consequence of the high bandwidth VSAT can support not only voice communication but also offers broadband data transmission capability. Due to the somewhat lower frequency band in which it operates, MSS was originally designed more particularly for voice transmission, the main application for satellite communication services in the past. However, over the last years, the demand for bandwidth-intensive (broadband) data communication services has increased steadily. As a consequence, the traditional MSS was further developed and its aggregated bandwidth capabilities were increased in order to meet the demand for broadband applications also in remote areas. To this end, for example but not exclusively, the satellite operator Inmarsat launched a new generation of satellites which enable it to introduce the so called Broadband Global Area Network (BGAN). BGAN now makes it possible to deliver MSS broadband data at transmission rates higher than those available over most existing terrestrial wireless networks and simultaneously voice almost anywhere on the earth. MSS services are thus today perfect substitutes to VSAT services.

Several satellite service providers supply a wide range of MSS/VSAT services, such as TSS and Stratos. Others, however, have chosen to concentrate their services to one specific line of business or are product orientated: for example Schlumberger concentrates on the oil and gas sector. However, this choice of specific line of business is a choice made for commercial reasons. This does not affect the market definition as such.

Further, customers' price awareness leads them to switching between MSS and VSAT solutions, depending on which system is the most economically advantageous. Thus, the price competition between MSS and VSAT services is fierce, and there are no significant differences in prices between these services.

The overall choice thus depends on price and also on functionality, i.e. how the customers intend to use the services, the required bandwidth and the reliability of the concerned service. It is normally the 'total cost of ownership' that drives customer demand in the market. Needless to say, service providers have to relate to their

customers. Thus, the choice of platform and technology is foremost based on functional needs and cost for airtime in combination with hardware.

The traditional MSS services referred to by Inmarsat in its letter are rapidly being overtaken by the consumer's demand for faster and cheaper two-way satellite communication services that can accommodate voice, fax, and data transmissions. In that respect, VSAT-based solutions are attractive both in terms of its original capability to carry high bandwidth and its increased mobility caused by the development in VSAT equipment becoming more and more mobile. However, as indicated above innovative MSS services today certainly offer, from a functionality viewpoint, an alternative to the VSAT solutions, so that the latter and MSS services should be included in one and the same market.

As a response to a demanding consumer market, TSS and other satellite service providers offer both MSS solutions and VSAT solutions. Taking further into account that VSAT and MSS both provide a two-way satellite communication solution which enables the user to receive and to submit voice as well as broad-band data traffic at similar prices, it is clear that both solutions form part of one product market. The relevant market should therefore be defined as that of two-way satellite communication services.

5.2 The relevant geographic market

The geographic scope of the two-way satellite communication services market is worldwide due to the specific characteristics of the satellite industry. The footprint of the satellite fleets of the main satellite operators covers most parts of the world (with the exception of parts of the Polar Regions). The nature and scope of the two-way satellite communication services effectively precludes any market restriction or price differentiation based on national or geographic location, as demand is unlimited by national boundaries. There are no hindrances to buy from international suppliers anywhere in the world and the customers in general, both resellers and end-users, procure two-way satellite communication services at an international, rather than a national, level. Further, there are no transportation costs or legal hindrances, such as duty etc, for the customers to buy internationally.

From an overall perspective, the market for two-way satellite communication services is characterized by the international sources for supply. It is a significantly international and transparent market as both customers and suppliers act internationally and there are no exclusivity in the purchase agreements. For instance, the Norwegian maritime segment is a truly international business with informed and powerful ship-owners who can exercise buyer power if they want. Ship-owners do not have problems sourcing their satellite communications services from satellite service providers around the world; and are actually doing so. TSS, FTMSC and most of their competitors market and sell their

services throughout the world either directly or through resellers. Finally – and as already stated above – the prices for two-way satellite communication services do not significantly vary in different regions of the world since the market is global.

6. MARKET STRUCTURE OF THE AFFECTED RELEVANT MARKETS

The value chain of the market comprises the following levels:

- **Satellite Operators** that own and manage the satellite fleets and sell airtime on their satellites, such as Eutelsat, Globalstar, Inmarsat, Intelsat, Iridium, SES Global and Thuraya. Satellite network operators sell the bulk of their satellite airtime to satellite service providers which act as wholesalers and normally provide teleport- and value added services. Increasingly, satellite network operators sell directly to resellers and end-users;

- **Satellite Service Providers**, which are the commercial entities that sell the satellite air time in the form of end-to-end communication services, directly to end-users or indirectly through a network of resellers. This is the core business of TSS and FTMSC;

- **Resellers**, selling and invoicing satellite services of the Service Providers to end-users.

- **End-users** that require telecommunication services in parts of the world where terrestrial and mobile telecommunication networks are either non-existent or are unreliable. Depending on their area of activity the customers can be grouped in maritime customers (such as merchant shipping, fishing vessels, passenger ships, leisure yachts, and government/military vessels), land based customers (such as governments/military forces, media companies, aid agencies & NGOs, oil & gas companies, construction and mining companies) and aeronautic customers (commercial aircrafts, government/military aircrafts, and business jets).

Traditionally, the key to service offering of satellite service providers was a Teleport or Land-Earth Station ('LES'). A teleport or LES forms an integrated part of the end-to-end connectivity between end users by connecting the satellite networks with terrestrial networks. However, owning a Teleport or LES does not represent any form of entry barrier as virtual network operators ('VNOs') now are established; the market is thus characterised by intense dynamics.

There is no data available to determine precise market shares of the parties and their competitors in the market for the provision of two-way satellite communication services. This is in particular due to the very high fragmentation of the market.

At world-wide level, FTMSC's estimated market share is approximately [redacted]

TSS' estimated market share world-wide is estimated to about [redacted]

There are no exact figures available for 'national market shares' in Norway, as all figures are gathered on a world-wide market basis.

The following market share figures on a world-wide basis for 2005 are also best estimates only, based on the general market knowledge of the parties.

Provider	Worldwide
TSS	[redacted]
FTMSC	[redacted]
Combined	[redacted]
Stratos/Xantic	[redacted]
KDDI	[redacted]
CapRock	[redacted]
Schlumberger	[redacted]
Estimate of total market size in EUR million	[redacted]

The market is as mentioned dynamic. For instance, it is expected that Inmarsat will in the future establish itself at satellite service providers' level, offering two-way satellite communication services directly to resellers and end-users, c.f. clause 8.2 below. Traditional hardware suppliers, such as Thrane & Thrane, are also increasingly active on the two-way satellite communication services market.

7. TWO-WAY SATELLITE COMMUNICATION SERVICES

7.1 Competitors

After the transaction, FTMSC's and TSS' most significant competitors will be Stratos/Xantic, AST, Singtel, CapRock, Schlumberger and Geolink. Stratos has a significant position in Norway, selling in particular to Norwegian shipping companies. Schlumberger is also a strong player. In addition, Ship Equip is a new entrant with expectations of a rapid growth in the two-way satellite communications market.

[5] TSS' estimates.

In two recent published newspaper articles, Ship Equip is characterised as a dominant provider of broadband services via satellite in the fishery sector and probably the largest within oil/gas supply. In 2006, they have a 25% market share of all new installations. Ship Equip clearly is of the opinion that the market is global.

Annex 2: Article of 21 September 2006 from Dagens IT
Annex 3: Article of 28 September 2006 from Dagens IT

7.2 Customers

FTMSC' most significant customers worldwide are Globewireless, French Defense, Telemar, Nautical and Outfitter.

As mentioned, [redacted]

TSS' most significant customers at world-wide level are Intelsat General Corp, Morsviazsputnik, 'MVS', (Russia), NSSL Ltd (UK), European Commission [redacted] and NATO NC3 Agency.

7.3 Suppliers / Service providers

FTMSC's most significant suppliers world-wide are today [redacted]

TSS' most significant suppliers worldwide are [redacted]

TSS' most significant suppliers in Norway are [redacted]

8. ASSESSMENT OF COMPETITION LAW ASPECTS

8.1 No significant restriction of competition

The combined market share of TSS and FTMSC on the relevant market as defined in section 5 above is well below the market share threshold of 20% from which market share information has to be provided in a merger notification for "affected markets".

Even if the geographic scope of the market was to be defined as national, which it should not, there would, under any circumstances, only be an insignificant overlap between the parties' activities. [redacted]

In any event, the market for two-way satellite communication services is fragmented with many large established international operators competing with each other worldwide. Following completion of the transaction TSS and FTMSC will continue to face competition from strong international companies such as Stratos/Xantic, Schlumberger and CapRock.

Upstream, the satellite operators have seller power as they set pricing and coverage, and determine whether raw capacity is available or unavailable.

There is movement and a dynamic in the market. We see that satellite network operators tend towards selling directly to resellers and some end-users and these in turn tend to buy directly from satellite network operators. This leads to an increased pressure on the satellite service providers-level in the market.

In addition, since more and more resellers choose to buy directly from the satellite operators, they tend to establish themselves on the upstream market for two-way satellite communication services.

The market is characterised by workable competition as there are many players, and prices are decreasing due to fierce competition.

Price awareness in the market leads customers to switching between MSS /VSAT solutions, depending on which system is the most economically advantageous. Thus, the price competition is fierce, as the resellers and end-users alternate among service providers for the "best deal".

Finally, there is also significant intrabrand competition at retail level since there are no exclusive distribution arrangements so that the services of each of the service providers are distributed by numerous resellers all over the world.

Moreover, since the agreements between the satellite service providers and the resellers / end-users do not contain exclusive purchase obligations either, many of the latter source, simultaneously and throughout the world, two-way satellite communication services from more than one satellite service provider to assure competitive pricing and service quality.

Customers, especially in the maritime sector and government sector, have buyer power.

As appears in the news paper articles (Annex 2 and 3 respectively), Comsys has published a report in which it is stated that in the offshore sector, the two-way satellite communication services market will multiply by four within the next three years. A majority of this will be end users migrating from Inmarsat E&E services. This shows the intense dynamics of the market.

Viewed against this background, it is not possible that the concentration creates or strengthens a significant restriction of competition in Norway contrary to the Competition Act Section 16 first paragraph.

8.2 Barriers to entry

Barriers to entry are low as satellite service providers do not have to operate their own satellite fleet but mainly purchase transponder capacity.

In fact, new satellite services providers, who previously had to invest in their own teleport of LES, now may be a virtual network operator ('VNO') or 'virtual LES'. Hence, owning a LES is no longer a requirement. Therefore, the key cost elements for a market entry are only related to the operations of a business, i.e. staffing, office expenses, billing, marketing, promotion. Further, all the related services (engineering and network operation, billing and customers care services) can easily be outsourced.

As mentioned above, several suppliers have recently entered the market. Ship Equip is newly established, and as shown in the enclosed newspaper articles, is already represented as a strong player in the market, c.f. Annex 2 and 3.

As mentioned, Inmarsat is about to establish itself as a service provider in the very near future.

In addition, Eutelsat and Intelsat have also provided two-way satellite communication services directly to resellers, and traditional hardware suppliers such as Thrane&Thrane are also increasingly active in the two-way satellite communication services market.

Hence, several recent entries prove that barriers to entry are low.

8.3 Efficiency gains

At this stage, it is the opinion of the notifying party that a description of efficiency gains is not – as such – directly relevant to the assessment of the transaction. (A brief description is given in the last two paragraphs of paragraph 2 above.)

8.4 Potential competition – the dynamics of the market

We mainly refer to clause 8.2 above. As mentioned, at least Inmarsat is about to establish itself as a service provider.

Intelsat has acquired a company operating as satellite service operator within the two-way satellite communication services, making direct sales to the US Government.

In addition, the resellers are also increasingly establishing themselves in the level of satellite service providers as e.g. Ku-band VNO with Intelsat or BGAN Distribution Partner with Inmarsat. Hence, the parties submit that both satellite operators and resellers are actual or potential competitors in the two-way satellite communication services market.

8.5 Inmarsat's comments on the Transaction

In addition to the market definition and competitive assessment as provided above, we find it appropriate to comment on the points raised by Inmarsat in their letter of 24 November 2006.

Contrary to what Inmarsat asserts in its letter, their traditional mobile satellite services do not, in any manner, constitute a separate product market, which should be distinguished from the rest of the two-way satellite communications services.

The 'very small aperture terminal' solutions ('VSAT') are, as mentioned in 5.1 above, also known as 'fixed satellite services' solutions ('FSS').

In a letter dated 7 September 2006 to the Competition Authority, Inmarsat has acknowledged that MSS and VSAT/FSS form part of the same product market as there is substitutability between the services. In addition, Inmarsat also stated that Inmarsat itself provides services on a global basis to a variety of distributors and that "Inmarsat is not in a position to comment on the geographic scope of such markets at the retail level." Please find enclosed a non-confidential version of Inmarsat's letter dated 7 September 2006 to the Competition Authority, c.f. page 1 last paragraph and page 2 of the letter.

Annex 4: Non-confidential version of letter of 7 September 2006 from Inmarsat to the Norwegian Competition Authority.

Based on Inmarsat's own statements of 7 September 2006, it is clear that Inmarsat's statement in the present case is inconsistent with its previous statements.

Further, it is important to bear in mind that there are several other satellite operators apart from Inmarsat supplying substitutable services. Inmarsat has, in its letter of 7 September, acknowledged the fact that there is substitutability between the satellite operators for the relevant satellite services. Inmarsat's assessment of the transaction's impact on the relevant market is thus irrelevant as Inmarsat services do not constitute separate product markets.

As put forward by Inmarsat at page 7 of their letter of 24 November 2006, certain end-users may have a preference for Inmarsat's services: that is simply the case for any product or service for any client on any market.

However, merger control law has never taken mere preferences as evidence of distinct markets. A constant position of competition law clearly shows that, rather, the test to be applied is whether the customer would move away from that preferred product/service to another product/service in case of a permanent rise in the prices of the former. In performing that test, respective prices, physical characteristics and functionality of the concerned services should be closely investigated.[6]

When defining the market, one should also assess whether there is a supply-side substitutability, i.e. whether the suppliers actually supply all the services deemed to belong to one and the same market, or are able to switch in the short term to services on the market they do not currently supply[7].

Only products/services that are not substitutable to each other within the above tests should be ranged in separate product/service markets.

In the present case, it has been shown at section 5 above that:

(i) the two-way satellite communication services, given their very close substitutability in terms of functionality and prices form indeed one and the same market. This includes not only other MSS technology based services but also VSAT technology based services; and

[6] Commission Notice 97/C 372/03 *on the definition of relevant market for the purposes of Community competition law*, §17.

[7] Commission Notice 97/C 372/03, §20;

(ii) most of the satellite service providers currently sell, or have the ability to sell all the services belonging to that market.

In that regard, Inmarsat itself states that "*substitutes* [to their services] *exist*" (page 7 in their letter of 24 November 2006), which in itself represents an acknowledgement of the fact that their services and those substitutable services belong to one and the same market.[8]

Inmarsat has limited its comments to the traditional E&E services, whereas the industry and the consumers are moving ahead to more broadband-style services. Even Inmarsat itself seems to have focused its resources on BGAN for this reason. The impact of any hypothetical merger in the future of FTMSC and TSS has been portrayed by Inmarsat only insofar as traditional E&E services are utilized. These services are only a few of many that the end-users may utilize to cover their individual communication requirements.

In any event, as mentioned above, even Inmarsat's 'E&E services' today have very close substitutes, which are based on other satellite operators' networks, consisting of both MSS and VSAT services.

Therefore, in the relevant market for the provision of two-way satellite communication services, as properly defined at section 5.1 above, all the objections to the transaction raised by Inmarsat fall flat (and it particular the supposed absence of alternative to TSS and FTMSC for the distribution of their products), since the structure of competition is in reality entirely inconsistent with their letter's description: as further detailed at section 8.1 above, on the market for two-way satellite services, competition is very fragmented, with many operators.

In this respect, Inmarsat has established itself as a satellite service provider, selling directly to resellers. And Inmarsat has already notified to its distribution partners that it will not extend the agreement with its distribution partners beyond April 2009 on the present terms, i.e. the expiry of the present agreement.

It is clear that, on the market for two-way satellite communication services, Inmarsat's future strategy is to vertically integrate its new BGAN services (land-based, as well as aeronautical, Swift BGAN and FleetBroadband[9]) thus controlling the value chain from transponder to land station and closer to the user.

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[8] The relevant product/service market for merger appraisal is in effect defined as comprising "*all those products and/or services which are regarded as interchangeable or substitutable by the consumer* (...)" (Commission Notice 97/C 372/03, §7.

[9] Maritime communication service.

The obvious competitive response from Inmarsat's distributors (satellite service providers and resellers of Inmarsat services) is thus to offer and promote alternative services based upon alternative platforms and technology and to compete with the current Inmarsat services. It seems that this development will lead to increased and further workable competition among distributors and satellite platforms.

For the sake of good order, we would also like to comment on Inmarsat's annex page 5 third paragraph, where it is stated that Inmarsat was required by certain of its shareholders, including TSS and FTMSC to agree to a continuation of the restriction on LES ownership. This statement misrepresents the facts. The renewal of the 1999 LESO Agreement terms was only one of several issues under discussion in 2003. During most of 2003, the focus of discussion between Inmarsat and its distribution partners was the pricing and distribution of new services (BGAN), not traditional services requiring access to a land earth station. Inmarsat's general agreement to renew the 1999 LESO Agreement provision regarding how and when it is entitled to own or operate a land earth station was in place as early as October 2003, well in advance of the shareholder vote that occurred on December 1, 2003. Ironically, the final wording of the LESO Agreement, including those provisions that qualify distributors, on ownership of an LES, did not occur until months after the shareholder vote.

This development – in combination with *inter alia* increased competition between Inmarsat, other satellite systems and VSAT technology – will ultimately increase customers' choice and quality/price of all services in the markets world-wide.
As mentioned above (at point 8.3), virtual LESO's are a common way of operating in the market and it is not necessary to own a LESO in order to be a satellite service provider. Thus, the decrease of LESO's mentioned by Inmarsat in its letter on page 6, is irrelevant when assessing the future competition in the relevant market.

Finally, the contemplated transaction does not lead to competitive restraints that should lead to a review of existing LESO agreements. The description of the privatization process given by Inmarsat is not entirely correct.[10]

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[10] Inmarsat was an intergovernmental treaty organization set up in 1979 with over 80 member countries, normally represented by the former national telecom provider. It is currently a leading international mobile satellite operator. Inmarsat put forward a restructuring plan under which it would be converted into a public company whose shareholders will be its former signatories. After a two-year period, Inmarsat envisaged a public offering of shares (IPO), which would have diluted the shareholdings of the former signatories. Having been converted into a public company, Inmarsat would no longer have a privileged position on the market. The approval of this model of conversion to a public company followed by an IPO within a short period of time was seen in the light of the ongoing restructuring plans of the other intergovernmental satellite organizations by the Commission.

Inmarsat tends to address Norway as one separate geographic market, c.f. above. This is blatantly wrong. Inmarsat has previously acknowledged a global market, c.f. Inmarsat's letter of 7 September.

Based on the above comments we submit that the effects described by Inmarsat are overstated and that the restructuring of the market illustrates the dynamics and the workable competition in the market for two-way satellite communication services.

9. CONTROL OF OTHER COMPETITION AUTHORITIES

Other than Norway, the transaction is – as mentioned above and in the standardized notification – only subject to merger control in Germany, due the low worldwide turnover of TSS.

10. ANNUAL REPORTS AND ANNUAL ACCOUNTS

Please find enclosed APAX France VI Financial Statements of 2005.

Annex 5: Apax France VI Financial Statements of 2005

Telenor ASA's (including TSS) annual report of 2005 is available on www.telenor.com/ir/.

11. ADDITIONAL INFORMATION

N/A

12. CONFIDENTIALITY / PUBLIC ACCESS

A non-confidential version will be forwarded to the NCA as soon as possible. We request that access by third parties to this version is not granted.

***

Please do not hesitate to contact us should you have any questions or queries.

Yours sincerely,
ADVOKATFIRMAET SCHJØDT

Gry Bergeius Andersen
advokat

EXHIBIT 2

Sealink Maritime VSAT

Sealink™

Sealink™ is a full service broadband satellite solution offering "always-on" voice, Internet access and Local Area Network (LAN) communications at a fixed monthly price. The Sealink™ solution is ideal for cruise, ferry, seismic, drilling, production, and commercial shipping companies requiring top-quality broadband communications network, with a fully managed turn-key service for business-essential communications at sea.

Related Iter

Vizada Calling
Terralir
WaveC
Sealink Sheet

Designed to meet specific operational requirements and using industry-best technologies, Marlink's Sealink™ solution includes network design, space segment, installation and maintenance of Customer Premise Equipment (CPE), 24/7 teleport services and technical support, Hub management, IP backbone connectivity and a Network control center. With access to multiple satellite networks, along with Vizada's global teleport network, the Sealink™ solution is seamlessly integrated into the user's IT infrastructure extending corporate IT functionality to the maritime environment.

Features and Benefits

- Broadband satellite solution
- Fully managed solution including installation of onboard CPE, maintenance, technical and customer support provided by Marlink
- Transmission rates from 64 kbps up to 8 Mbps for "always-on" voice, Internet access and LAN-to-LAN services
- Service performance based on Service Level Agreement (SLA)
- Fixed monthly costs enables operators to effectively manage communications costs
- Global and regional coverage using C- and Ku-Band space segment
- Independent network using satellite coverage provided through Vizada's network of global teleports
- 24/7 Help Desk

Global Connectivity

Sealink™ provides maritime users with worldwide coverage through Vizada-owned teleports located in Eik, Norway and Santa Paula, California in the United States.

SATELLITE SERVICES

communications via satellite

Sealink™

Sealink™ is a full service broadband satellite solution offering "always-on" voice, Internet access and Local Area Network (LAN) communications at a fixed monthly price. The Sealink™ solution is ideal for cruise, ferry, seismic, drilling, production, and commercial shipping companies requiring a custom-designed broadband communications network, with a fully managed turn-key service for business-essential communications at sea.

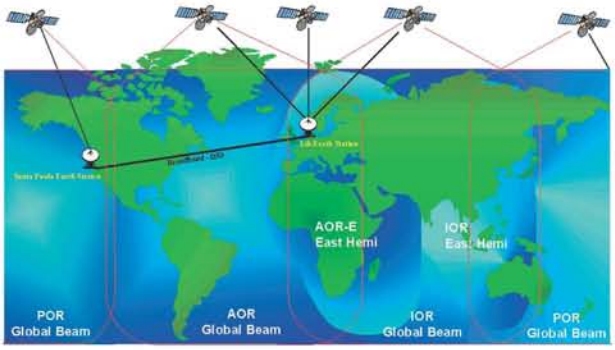
Designed to meet specific operational requirements and using industry-best technologies, Telenor's Sealink™ solution includes network design, space segment, installation and maintenance of Customer Premise Equipment (CPE), 24/7 teleport services and technical support, Hub management, IP backbone connectivity and a Network control center. With access to multiple satellite networks, along with Telenor's global teleport network, the Sealink™ solution is seamlessly integrated into the user's IT infrastructure extending corporate IT functionality to the maritime environment.

Features and Benefits

- Custom designed broadband satellite solution
- Fully managed solution including installation of onboard CPE, maintenance, technical and customer support provided by Telenor
- Transmission rates from 64 kbps up to 8 Mbps for "always-on" voice, Internet access and LAN-to-LAN services
- Service performance based on Service Level Agreement (SLA)
- Fixed monthly costs enables operators to effectively manage communications costs
- Global and regional coverage using C- and Ku-Band space segment
- Independent network using satellite coverage provided through Telenor's network of global teleports
- 24/7 Help Desk

Global Connectivity

Sealink™ provides maritime users with worldwide coverage through Telenor-owned teleports located in Eik, Norway and Santa Paula, California in the United States.



The availability of service at the edge of coverage areas fluctuates depending on a variety of conditions. The map depict Telenor's expectations for coverage, but does not represent a guarantee of service.

Potential Applications

- Broadband Internet/Intranet access
- Corporate LAN/WAN
- Voice communications
- Video communications
- Remote monitoring & diagnostics
- GSM
- Entertainment services
- Telemedicine

Technical Support

- Installation and maintenance of equipment
- 24/7 Help Desk
- Call out service
- Access to terrestrial network
- Network Control Center
- VPN Hub
- Spare parts stock

Telenor Satellite Services

Customer Care
Tel: +1 301 838 7700
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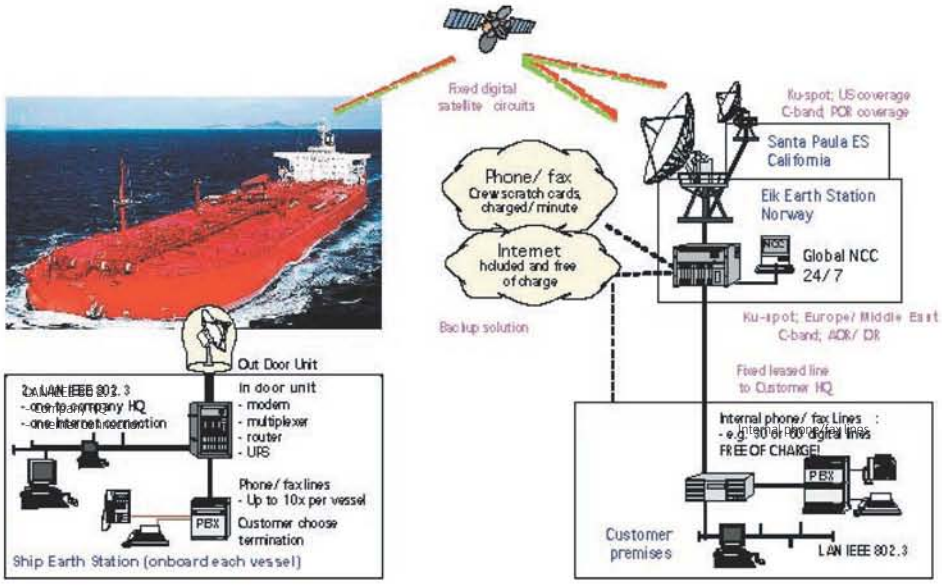
www.telenor.com/satellite

System Diagram: Typical Sealink™ Solution



Satellite Capacity

Telenor provides satellite capacity for Sealink™ from multiple satellite operators. The choice of provider varies depending on required satellite footprint, available capacity, price, and the remaining lifetime of the satellite. Telenor delivers capacity on satellites using C-Band and Ku-Band transponders. A teleport facility serves as an access point for satellite capacity from and to the terrestrial network. Telenor's global teleport network provides a gateway interconnecting various satellite networks and offers both domestic and international terrestrial connections.

The Telenor Global Teleport Network

Sealink™ is powered by Terralink™, Telenor's exclusive IP networking platform. Customers may use either Terralink™ or a dedicated PSTN connection to link Telenor's Hub to the user's communication center. Telenor's primary teleports for Sealink™ are in Eik, Norway and Santa Paula, California in the United States. Telenor also operates teleports in Nittedal, Norway and Southbury, Connecticut in the United States, as well as in the Netherlands, the Czech Republic and the Slovak Republic. These teleports are built to the highest quality, redundancy, security and reliability standards in the industry and have redundant access to terrestrial networks.

Customer Care

Telenor provides expert technical support 24-hours a day through personnel from our Customer Care Center. To reach Telenor's Customer Care Center, call +1 301 838 7700 (worldwide), 1 800 685 7898 (North America) or send an e-mail to customer.care@telenor.com.

Sealink

CERTIFICATE OF SERVICE

I, Jeffrey A. Marks, hereby certify that on this 25th day of August 2008, I caused to be served a true copy of the foregoing Opposition by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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