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

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

OPPOSITION OF INMARSAT PLC AND STRATOS GLOBAL CORPORATION TO APPLICATION FOR REVIEW

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SUMMARY

This proceeding involves the second step of a two-step transaction by which Inmarsat (a satellite operator and a wholesale provider of satellite services) will acquire indirect control over Stratos (a retail distributor of satellite services). The businesses of the two companies do not overlap at all: Stratos does not own or operate any satellites, and Inmarsat does not provide any retail distribution services. Thus, this transaction will not result in increased concentration in any relevant market.

The full Commission approved the first step of this transaction in December 2007, under an arrangement, financed by Inmarsat, in which a trust acquired control of Stratos, and Inmarsat obtained an option to acquire control of Stratos in the future. Inmarsat sought approval to exercise its option in June 2008, and, in January 2009 (consistent with the Commission's six-month target for merger review), the Bureau found that second step to be in the public interest. The transaction had previously passed muster under the HSR and the CFIUS processes.

Notably, no user of Inmarsat services, and no Stratos customer, expressed any concern about this transaction. In fact, end users of Inmarsat services (including the United States Government) support this transaction. These consumers appreciate that this vertical combination will give them the option to purchase services directly from Inmarsat/Stratos, in the same way they can buy from other satellite providers, instead of their being forced to deal with middlemen like Vizada who may not best serve their needs. As a result, consumers will enjoy considerable benefits, including lower prices, improved quality, and increased availability of satellite services.

Vizada is the only entity to raise any issues with this transaction. Vizada, Stratos' primary competitor, is the successor-in-interest to the satellite distribution businesses originally established by foreign PTTs (Deutsche Telekom, France Telecom, and Telenor), and is owned and controlled by a French private equity fund. Vizada seeks to have the full Commission reverse the Bureau's decision so that Vizada may seek to continue the historical anti-competitive

advantages it still enjoys with respect to the retail distribution of Inmarsat services—advantages provided by commercial contracts that otherwise will finally expire in April 2009, without the need for any Commission intervention.

Contrary to what Vizada claims, the Bureau's review of this transaction did not involve novel issues but instead involved the straightforward application of longstanding precedent. Among other things, the Bureau relied upon the full Commission decision in December 2007 that examined the very same competitive issues that Vizada raises a second time here. Moreover, the Bureau's decision is consistent with its approval of similar transactions on delegated authority.

The Bureau's analysis of the market and the competitive effects of this transaction is not only in accord with Commission and Department of Justice standards, but also is backed by solid record evidence, including supplemental information developed during the pleading cycle. The Bureau has routinely analyzed other satellite transactions without issuing any data or information requests. There was no need for more data to be provided in this case to the Bureau, just as DOJ determined there was no need for a Second Request in the Hart-Scott-Rodino review.

Moreover, because this transaction does not affect concentration in any market, using the alternative (and very narrow) market definitions Vizada proposed would not have altered the ultimate conclusion that the Bureau reached. The Bureau correctly acknowledged the pro-consumer nature of this vertical transaction. The Bureau also properly recognized that the "harm" Vizada asserted was not any harm to consumers, or to other satellite operators, but rather was an impact only on Vizada's own bottom line, and thus was not cognizable as a competitive harm. As a result, the Bureau concluded that it had all of the information it needed to determine that this transaction is likely to lead to considerable benefits for consumers.

For these reasons, the Commission should affirm the decision of the International Bureau and deny the Application for Review.

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OPPOSITION OF INMARSAT PLC AND STRATOS GLOBAL CORPORATION TO APPLICATION FOR REVIEW

Inmarsat plc ("Inmarsat") and Stratos Global Corporation ("Stratos") submit this opposition to the Application for Review filed by VIZADA, Inc. and VIZADA Services LLC ("Vizada") challenging the International Bureau's approval of Inmarsat's indirect acquisition of control of Stratos in the second step of a two-step transaction.[1] For the reasons explained below, the Commission should affirm the Bureau's decision and deny the Application for Review.

I. INTRODUCTION

Inmarsat competes with more than a dozen other satellite system operators in the provision of satellite capacity on a wholesale basis. Over half a dozen other companies hold Commission authorizations to operate international satellite networks in spectrum bands specifically allocated for the Mobile Satellite Service (MSS). As a result of regulatory flexibility that allows the deployment of mobile satellite services to VSAT terminals in Fixed Satellite

[1] *Robert M. Franklin, Transferor, and Inmarsat plc, Transferee, Consolidated Application for Consent to Transfer of Control*, DA 09-117 (rel. Jan. 16, 2009) ("*Step 2 Order*").

Service (FSS) spectrum, Inmarsat also competes around the world with the operators of over one hundred other spacecraft, who have access to far more spectrum than any MSS satellite operator, by a factor of more than ten.

Similarly, the full Commission has already rejected the claims of competitive harm that Vizada raises for a third time in its Application for Review. Vizada initially raised these issues in challenging the first step of this transaction in 2007, when the Commission was considering a transaction, financed by Inmarsat, in which a trust would control Stratos, and Inmarsat would obtain an option to acquire control of Stratos at a later date. Vizada argued that the Step 1 transaction would allow Inmarsat to "favor" Stratos by providing it with preferential terms and conditions with respect to satellite capacity, network capabilities, or service enhancements. The full Commission rejected that challenge in the *Step 1 Order*, and also found that any such occurrence would not harm competition.[2] The Commission explained that anticompetitive effects were unlikely because distributors (such as Vizada) have sufficient options to obtain capacity from other satellite operators, and Inmarsat itself faces substantial competition in the provision of capacity for mobile satellite services.[3] The Commission further recognized that Inmarsat's desire to obtain a mature, retail distribution network for its own services was a perfectly reasonable response to increasing competition in the marketplace and would likely produce considerable procompetitive benefits.[4] Moreover, the Commission stressed that it

[2] *Stratos Global Corporation, Transferor, and Robert M. Franklin, Transferee, Consolidated Application for Consent to Transfer of Control*, 22 FCC Rcd 21328, 21355, ¶ 63 (2007) ("*Step 1 Order*").

[3] *Id.* at 21356, ¶ 64.

[4] *Id.* at 21355, ¶ 62; *see also id.* at 21355, ¶ 62 n.195 ("In general, efficient vertical integration tends to lower various transaction costs relative to reliance on arms-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.").

would consider only potential harms that might impact "industry competition and consumer welfare and *not* simply the possible effects on individual *competitors*,"[5] such as Vizada.[6]

Vizada raised these same types of challenges before the International Bureau in the summer of 2008, in response to the application seeking consent for the second step—the exercise of Inmarsat's option to acquire control of Stratos. In response to the Bureau's *Step 2 Order*, Vizada raises these issues yet again in its Application for Review.

The Bureau's decision followed naturally from the full Commission's competitive analysis in the *Step 1 Order* just one year before, and was in accord with the Commission's goal of completing its review of transactions within approximately six months. As an initial matter, the Bureau rejected Vizada's argument that there were nine relevant product markets,[7] finding that, although some differentiation exists among those narrow categories of mobile satellite services, they all share the "fundamental demand characteristic" of "providing telecommunications connectivity to consumers in geographically diverse or remote areas."[8] The Bureau also found that Inmarsat faces substantial competition and lacks market power, even within the narrow service categories that Vizada identified.[9] Thus, the Bureau correctly recognized that Inmarsat's acquisition of control of Stratos will enable users of Inmarsat services to immediately enjoy the pro-competitive benefits that will flow from Inmarsat's owning a robust retail

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[5] *Id.* at 21355, ¶ 62.

[6] Vizada is plainly wrong in its repeated mischaracterization of Inmarsat as a "former *de jure* monopolist," because neither the Inmarsat Convention nor any other law precluded competition to Inmarsat. In any event, there is no need to belabor the point here, because the full Commission properly recognized that "Inmarsat is not a monopolist in the supply of mobile satellite capacity for international mobile satellite services." *Id.* at 21355, ¶ 63.

[7] *Step 2 Order*, ¶¶ 31–32.

[8] *Id.*, ¶ 32.

[9] *Id.*, ¶ 40.

distribution channel of its own—that is, having the same type of distribution structure as every one of its satellite operator competitors. The Bureau therefore found that the vertical combination of Inmarsat and Stratos is unlikely to harm competition or consumers,[10] and concluded that the transaction is in the public interest.[11]

Faced with these consistent Commission findings, Vizada resorts to suggesting that the current contractual prohibition on Inmarsat operating its own retail distribution channel was put in place to somehow ensure competition. Vizada mischaracterizes history. As Inmarsat previously detailed, the requirement that Inmarsat services be distributed through an elite club of distributors was an anti-competitive constraint (i) designed to benefit the businesses established by Inmarsat's former Signatory owners (including Vizada's predecessors-in-interest, Deutsche Telekom, France Telecom, and Telenor), and (ii) perpetuated by former Signatory owners as a condition for consenting to Inmarsat's compliance with the Orbit Act requirement that the ownership of those former Signatories be substantially diluted.[12]

More fundamentally, the contractual restrictions that prevent Inmarsat from operating its business in the same manner as all other satellite operators have nothing to do with this transaction. Fortunately, those restrictions will finally and automatically expire on April 14, 2009, regardless of this transaction. When that occurs, Inmarsat can implement its long-stated plans to revise those legacy arrangements that have allowed Vizada to retain benefits that now will be (i) passed along to consumers in the form of lower prices, (ii) reinvested in technological innovation, and (iii) made available to a wider range of Inmarsat retail distributors. That development is what Vizada fears, and is why Vizada continues to challenge this transaction.

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[10] *Id.*, ¶ 49.

[11] *Id.*, ¶ 53.

[12] Opposition of Inmarsat plc, IB Docket No. 08-143 (filed Aug. 25, 2008) at 4–5.

II. THE BUREAU CORRECTLY FOUND THE MARKET COMPETITIVE AND THIS TRANSACTION IN THE PUBLIC INTEREST

The Bureau's assessment of the market and the competitive effects of this transaction is fully in line with previous Commission decisions involving mobile satellite services. The Bureau employed the same analysis that the Commission has consistently used in other proceedings, and reached the same conclusions—that the relevant market includes all mobile satellite services and is competitive. Thus, as the Bureau found, no substantial competitive harms are likely to result from Inmarsat's acquisition of one of its retail distributors; moreover, substantial procompetitive benefits can be expected from a vertical transaction such as this.[13] Contrary to Vizada's contention, it was unnecessary for the Bureau to seek additional market data because the record already contained sufficient evidence to evaluate the market and conclude that the applicants met their burden to show that the transaction serves the public interest.

A. The Bureau's Competitive Effects Analysis Is Consistent with Precedent

1. The Commission Consistently Has Defined the Market Broadly

Vizada has conceded that this transaction raises no competitive concerns if, as the Bureau found, Inmarsat lacks market power in the relevant markets.[14] And Vizada does not contest the Bureau's finding that there are numerous market participants offering mobile satellite services both in the United States and globally. Vizada's primary challenge on review is to the Bureau's finding that, for purposes of assessing competitive effects, the market includes all providers of international mobile satellite services. Although Vizada claims that the Bureau "disregarded

[13] *Step 2 Order*, ¶ 30.

[14] *See* Letter of VIZADA, Inc. and VIZADA Services LLC, IB Docket No. 08-143 (filed Dec. 8, 2008) at 16 ("This would be another case if Inmarsat did not have market power in the key maritime, aeronautical and land mobile markets discussed above.").

applicable law and Commission precedent on how to define relevant product markets," Vizada does not offer a single citation to support its artificially limited view of the market.[15] In contrast, there are many examples where the Commission examined mobile satellite services as a single market, just as the Bureau did here.

Most notably, the Commission used the same broad market definition when it evaluated, and rejected, the alleged harms that Vizada asserted in opposing Step 1 of this transaction (which are the same harms that Vizada raises in opposing Step 2). In its *Step 1 Order*, the Commission rejected Vizada's claim that the transaction would create incentives for anticompetitive behavior, because alternatives existed in the provision of "international mobile satellite services" at both the wholesale and retail levels.[16] The Commission went on to find that the transaction would not "augment the market power of either Stratos Global or Inmarsat" or give rise to market power, taking into account "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."[17]

Vizada attempts to brush aside the relevance of the full Commission's *Step 1 Order* by arguing that the Commission decided only "a far less competitively significant matter of whether CIP should be allowed to acquire control of Stratos and place that interest in trust."[18] But the Commission's findings are far more significant than that. Vizada claimed that Step 1 was anticompetitive because it would confer upon Inmarsat the incentive to discriminate against

[15] *See* Vizada Application for Review at i.

[16] *Step 1 Order*, 22 FCC Rcd at 21355, ¶ 63.

[17] *Id.* at 21356, ¶ 64.

[18] Vizada Application for Review at 6 n.10.

Vizada and other distributors in favor of Stratos.[19] The Commission rejected Vizada's assertion of competitive harm, specifically finding that "[o]nly within the context of these possibly changed economic incentives are the complaints of anticompetitive effects of the instant transaction potentially relevant."[20] The Commission performed its competitive effects analysis with the market broadly defined to include all mobile satellite services.

The Commission and its Bureaus have used the same broad-based approach when evaluating market conditions in other contexts involving the mobile satellite industry. For instance, in reviewing a proposed joint venture between two MSS operators to provide a combined Canadian-American service, the Bureau found that "the proposed transaction raises no significant competitive concerns" because "there are a number of other firms offering or planning to offer MSS services," along with other firms that "have substantial capacity available for MSS." [21] Four years later, in connection with modifying spectrum reservations in the 2 GHz MSS band,[22] the full Commission rejected the contention that services in this band were too new to determine whether they should be considered part of the same market with other MSS services. The Commission ruled that 2 GHz service offerings "will compete in the same product market as the offerings of other MSS bands" and that "the relevant product market includes all MSS services."[23] More recently, the *13th Annual CMRS Report*[24] describes the relevant product

[19] *See Step 1 Order*, 22 FCC Rcd at 21355, ¶ 62.

[20] *Id.* at 21354, ¶ 60.

[21] *See Motient Servs. Inc. and TMI Commc'ns and Co., LP (Assignors) and Mobile Satellite Ventures Subsidiary LLP (Assignee)*, 16 FCC Rcd 20469, 20478, ¶ 24 (2001).

[22] *See Use of Returned Spectrum in the 2 GHz Mobile Satellite Service Frequency Bands*, FCC 05-204, IB Docket Nos. 05-220 and 05-221 (Dec. 8, 2005).

[23] *Id.*, ¶¶ 33–34.

market broadly to include all mobile satellite services ranging "from voice-based applications, fax and paging to highly customized data services for tailored enterprise applications."[25] The Commission's Reports to Congress as required by the ORBIT Act also take the same broad-market view and find that U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met.[26]

Vizada itself embraced this broad view of the market when seeking Commission approval for the combination of the Inmarsat distribution businesses of Telenor and France Telecom, which created Vizada. In that case, Vizada represented to the Commission that "the markets in which the [MSS companies] compete are characterized by robust competition today,"[27] and described the market as "highly competitive with numerous participating entities," including MSV, Inmarsat, Globalstar, and Iridium, as well as other potential entrants, including ICO and TMI, and recognized competition coming from both terrestrial wireless systems and FSS satellite

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[24] *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993: Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, DA 09-54 (rel. Jan. 16, 2009) ("*13th Annual CMRS Report*").

[25] *Id.*, ¶¶ 249–50.

[26] *FCC Report to Congress as Required by the ORBIT Act*, Ninth Report, FCC 08-152 (rel. June 13, 2008) ("On the whole, we believe that U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met in accordance with the ORBIT Act."); *see also Applications of SatCom Systems, Inc. and TMI Communications and Company, L.P.*, 14 FCC Rcd 20798, ¶¶ 15–19 (1999) (referring generally to the "U.S. satellite market" and the "U.S. MSS market"); *Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Services in the Upper and Lower L-Band*, 17 FCC Rcd 2704, 2709, ¶¶ 12–13 (2002) (considering impact to the "U.S. MSS Market"); *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States and Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations*, 12 FCC Rcd 24094, 24097–98, ¶¶ 4, 7 (1997) (discussing the "U.S. satellite services market" and "U.S. market" generally).

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

systems.[28] Before the Norwegian Competition Authority on the same transaction, Vizada defined the market as "the provision of two-way satellite communications services," and argued that it would be "inappropriate to define the market depending on the respective satellite operators," because all providers "offer an identical 'product'—transponder capacity and airtime for communication."[29] Although Vizada's own representations to regulators mirror the approach the Bureau adopted here,[30] Vizada spurns the Bureau's analysis as "circular" and "absurd."[31]

In short, Vizada's central challenge to the *Step 2 Order*—that the Bureau disregarded Commission precedent on market definition and competitive effects analysis—simply does not withstand scrutiny. Vizada does not identify a single decision where the Commission adopted Vizada's proposed market definition for the purpose of evaluating competitive effects. Vizada cannot escape from the overwhelming weight of contrary Commission precedent.

2. The Bureau's Analytical Approach Was Correct

Contrary to what Vizada asserts,[32] the Bureau's analytical approach followed established Commission precedent and practice. As an initial matter, the Commission has repeatedly emphasized that its competitive effects analysis "is informed by, but not limited to, traditional antitrust principles."[33] Nonetheless, the Bureau's analysis closely tracks the approach laid out in

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[28] *Id.* at 13.

[29] Opposition of Inmarsat, IB Docket No. 08-143 (filed Aug. 25, 2008) Exhibit 1, Complete Notification – Inceptum 1 AS' Acquisition of Telenor Satellite Services AS at 7.

[30] *See Step 2 Order*, ¶ 31 ("The various services provided by MSS operators share a fundamental demand characteristic: they provide mobile telecommunications connectivity to consumers in geographically diverse or remote areas.").

[31] Vizada Application for Review at 4 n.7, 14.

[32] *See, e.g.*, *id.* at 8, 15 & n.38, 24.

[33] *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor to Sirius Satellite Radio Inc., Transferee*, 23 FCC Rcd 12348, 12365, ¶ 32 (2008); *see also Applications for Consent to the Transfer of Control of Licenses from Comcast*

the *Horizontal Merger Guidelines*.[34] The Bureau explained that it was defining the market based "on considerations of demand substitutability," as set forth in the *Guidelines*.[35] The Bureau properly approached the issue from the consumer's perspective and determined based on the record that, although some differentiation exists among mobile satellite services and substitution is imperfect, providers compete with one another to keep the market in check.[36] Vizada's suggestion that the *Guidelines* compel a different conclusion is undermined by the fact that this transaction cleared the Hart-Scott-Rodino process without a "second request" for the type of additional information that Vizada asserts should have been obtained.[37]

Furthermore, even had the Bureau defined the market differently, the record does not support Vizada's claim that Inmarsat has market power. Stated another way, a more segmented approach would not have altered the ultimate conclusion of the Bureau's competitive effects analysis.[38] As detailed in the next section, the Bureau found, with respect to each of the service categories Vizada identified, that (i) Inmarsat has major competitors, (ii) there are no major

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Corp. and AT&T Corp., Transferors, to AT&T Comcast Corp., Transferee, 17 FCC Rcd 23246, 23256, ¶ 28 (2002) (competitive effects assessment "is not limited by traditional antitrust principles").

[34] *See DOJ/FTC Horizontal Merger Guidelines*, 57 Fed. Reg. 41552 (Sept. 10, 1992), revised, 4 Trade Reg. Rep. (CCH) ¶ 13104 (Apr. 8, 1997) ("*Horizontal Merger Guidelines*"). Furthermore, the Bureau's decision is also in line with the *Non-Horizontal Guidelines*, which expressly recognize that vertical transactions such as this "are less likely than horizontal mergers to create competitive problems," and that expected efficiencies from vertical integration should be "give[n] relatively more weight" than in horizontal transactions. *See* Dep't of Justice, *Non-Horizontal Merger Guidelines*, § 4.0, 4.24, 49 Fed. Reg. 26823 (June 29, 1984).

[35] *Step 2 Order*, ¶ 31.

[36] *Step 2 Order*, ¶ 38.

[37] *See* Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a. Indeed, the Commission's data requests are often patterned after the second requests in the HSR process.

[38] *See Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation*, 19 FCC Rcd 21522 (2004) (using broader market definition even though traditional tools indicated narrower markets, when doing so did not alter competitive analysis).

legal, regulatory, or technical barriers to entry, and (iii) there is sufficient MSS spectrum and FSS capacity to ensure robust competition for mobile satellite services.[39]

B. Substantial Evidence Supports the Bureau's Analysis

1. The Bureau Properly Defined the Relevant Markets and Found that Inmarsat Does Not Have Market Power

The Bureau thoroughly addressed the record evidence in defining the market and assessing competitive effects. Based on its evaluation of the record, the Bureau found that all mobile satellite services "share a fundamental demand characteristic," namely, the provision of "mobile telecommunications connectivity to consumers in geographically diverse or remote areas."[40] The Bureau explained that although mobile satellite services have different features and characteristics and consumers use these services "in different environments . . . , at various speeds, using various kinds of handsets or terminal equipment, with varying coverage areas, etc.," the evidence showed that competition exists between these services "through the clash of imperfect substitutes."[41] Thus, based on the record before it, the Bureau defined the two relevant markets to be the retail and wholesale provision of international mobile satellite services.[42]

The Bureau pointed to maritime broadband services as an illustration of how "[e]ach mobile satellite service competes for customers on the basis of a distinct profile of advantages and disadvantages."[43] The Bureau found that, compared with FSS satellite operators, Inmarsat is "limited by the amount of spectrum it has available, and is therefore relatively expensive for

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[39] *See Step 2 Order*, ¶ 40.

[40] *Id.*, ¶ 31.

[41] *Id.*, ¶¶ 31 n.81, 38.

[42] *Id.*, ¶ 32.

[43] *Id.*, ¶ 38.

large volume users," even though it might have several other advantages.[44] Within this industry segment, the Bureau explained that "there are several viable alternatives" to Inmarsat's service that "constrain Inmarsat's power to restrict supply and raise price," including a "combination of regional FSS broadband services that provide extensive international coverage" and "Iridium's recently inaugurated MSS offering OpenPort," which also have their own advantages and drawbacks.[45] The same is true, the Bureau found, with respect to the other service categories that Vizada suggested (maritime low-speed data services, aeronautical high-speed data services, and remote land-based high-speed data services).[46]

The Bureau then proceeded to evaluate whether Inmarsat possessed market power within this broadly defined market. It identified "several major MSS operators" that provide competing services, and observed that additional firms are "developing major new MSS systems to provide service in the future."[47] The Bureau found that there is sufficient allocated spectrum to allow all of these systems to compete effectively with Inmarsat.[48] Furthermore, the market is "not limited to MSS operators," as the Bureau explained: "Technological progress has enabled FSS operators in the C- and Ku-bands to become major competitors of Inmarsat in the provision of mobile satellite services," and "[c]ompetition is also emerging from terrestrial wireless providers."[49]

The record demonstrated that robust competition exists even with respect to the narrow service categories that Vizada proposed as separate markets. As the Commission observed, "Inmarsat has major competitors for each of the above service categories, and several MSS

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[44] *Id.*

[45] *Id.*

[46] *Id.*, ¶ 40.

[47] *Id.*, ¶ 36.

[48] *Id.*

[49] *Id.*, ¶ 37.

incumbents and new entrants are developing state-of-the-art broadband satellite systems that will compete with Inmarsat in the future."[50] The Bureau also noted that "[t]here are no major legal, regulatory, or technological barriers to entry in these service categories," and adequate spectrum is available for competing services, "as well as FSS capacity for mobile satellite applications."[51]

With all of these various rivals in the relevant marketplace, the only reasonable conclusion to draw from the record is that Inmarsat lacks market power.[52] Because Stratos is merely "an independent distributor that itself has no market power," the Bureau also properly concluded that Inmarsat's acquisition of Stratos "is not likely to create market power."[53]

2. Vizada Did Not Justify a Narrower Market Definition

Vizada argues that the Bureau "[i]gnored, [m]isstated, and [m]isapprehended" the information Vizada submitted, which (in Vizada's words) "makes manifest" that the four service segments it identified are "distinct relevant markets . . . where Inmarsat does not today and will not any time soon face effective competition."[54] However, the information that Vizada offered did not support a narrower market definition. It consisted primarily of a declaration by Vizada's consultant, who is not an economist and who expressly did not purport to analyze demand substitutability among various service segments.[55] Vizada's consultant *expressly disclaimed any*

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[50] *Id.*, ¶ 40.

[51] *Id.* Vizada fails to explain why it was improper for the Bureau to rely on publicly available information and the evidence already in the record to conclude that Inmarsat does not derive market power from its existing base of users. *See Step 2 Order*, ¶ 39.

[52] *Id.*, ¶ 49.

[53] *Id.*, ¶ 49 n.135.

[54] Vizada Application for Review at 8, 14.

[55] *See* Reply of VIZADA Inc. and VIZADA Servs. LLC to Oppositions of Inmarsat plc and Stratos Global Corp. (filed Sept. 10, 2008), Attachment A, TMF Associates, *The Mobile Satellite Services Business: Competitive Structure, Size, Segments, and the Unique Role of Inmarsat in Certain Segments* ("TMF Comments").

use of the term "market" in the economic or antitrust sense, but rather used it "in the loose business parlance sense to refer to the MSS business and sometimes individual market segments of that business."[56] Furthermore, the TMF Comments conceded that the MSS service categories Vizada suggested "may be included in relevant markets that also encompass FSS alternatives and/or terrestrial alternatives."[57] Therefore, the information Vizada supplied is of little or no value in connection with the demand substitutability analysis that the Bureau performed, and certainly does not mandate a different conclusion.

Vizada's contention that the TMF Comments "went unrebutted"[58] is belied by the record. Inmarsat and Stratos twice provided detailed, substantive responses (with references to third party analysis and evidence) demonstrating that (i) many points raised in the TMF Comments were inconsistent with analysis that TMF Associates previously has provided to its subscribers, and that (ii) other points actually support a broader market definition and show that there is considerable competition in all service segments.[59] For all of these reasons, the Bureau was correct that Vizada failed to provide economic evidence that these service categories "are distinct product markets and not merely segments of a broader mobile satellite services market."[60]

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[56] TMF Comments at 1.

[57] *Id.*

[58] Vizada Application for Review at 15.

[59] *See* Letter of Inmarsat plc and Stratos Global Corp., IB Docket No. 08-143 (filed Oct. 9, 2008) at 3–10; Letter of Inmarsat plc and Stratos Global Corp., IB Docket No. 08-143 (filed Dec. 17, 2008), Annex A.

[60] *Step 2 Order*, ¶ 33.

3. Additional Fact Finding Was Neither Necessary Nor Appropriate

Vizada is simply incorrect that it is "standard procedure" in nearly every transaction for the Commission to seek additional facts and data from the parties.[61] Where, as here, sufficient record evidence exists to evaluate the market and conclude that the transaction is in the public interest, there is no need to request and analyze volumes of additional information before approving the transaction—particularly when, as here, the full Commission had already laid all of the necessary groundwork for concluding that the transaction is procompetitive.

Vizada contends that it was inappropriate for the Bureau to approve this transaction on delegated authority without requiring Inmarsat and Stratos to submit additional facts, on the grounds that this transaction involves "novel" issues, and that the Bureau departed from Commission precedent and policy by defining the market broadly to include all international mobile satellite services. As explained above, however, the Commission has used the identical approach when evaluating competitive effects in similar contexts. Thus, the Bureau's review of this transaction did not involve novel issues but, rather, the straightforward application of longstanding precedent. Furthermore, the Bureau has frequently analyzed and approved other satellite transactions on delegated authority, often without issuing any data or information requests—even where there was horizontal consolidation, rather than vertical integration.[62] The

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[61] *See, e.g.*, Vizada Application for Review at 11.

[62] *See, e.g., Telenor ASA, Transferor, and Inceptum 1 AS, Transferee, Seek FCC Consent to Transfer Control*, DA 07-2163 (rel. May 23, 2007) ("*Vizada Consolidation Order*"); *Motient Corp. and Subsidiaries, Transferors, and SkyTerra Communications, Inc., Transferee, Application for Authority to Transfer Control of Mobile Satellite Ventures Subsidiary LLC*, 21 FCC Rcd 10198 (2006); *Application of New Skies Satellites Holdings Ltd., Transferor, and SES Global S.A., Transferee, to Transfer Control of Authorizations Held by New Skies Networks, Inc.*, DA 06-699 (rel. Mar. 29, 2006); *Hughes Network Sys., Ltd., Assignor, and HNS Licensee Sub, LLC, Consolidated Application for Consent for Assignment of Earth Station Licenses and Associated Special Temporary Authorizations*, 20 FCC Rcd 8080 (2005); *Intelsat, Ltd., Transferor, and Zeus Holdings Ltd., Transferee; Consolidated Application for Consent to*

Bureau correctly decided that it was neither necessary nor appropriate to seek the additional data that Vizada requests.

4. The Bureau Correctly Recognized the Pro-Competitive Benefits of this Transaction

Vizada contends that "it was fundamental error" for the Bureau to conclude that the reasons for Inmarsat to integrate vertically are "plausible," "pro-competitive," and will "yield significant economic efficiencies."[63] Vizada's argument misses the mark. The Commission has long recognized that vertical transactions, such as this, allow the merged firm to provide goods and services more efficiently to the consumer (thus leading to lower prices, better quality, and increased output) by (i) reducing transaction costs as the integrated firm more efficiently distributes its services, and (ii) reducing double marginalization as the vertically integrated business would not realize a profit margin at both levels of the distribution chain.[64]

Vizada claims that it was arbitrary and capricious for the Bureau to "accept[] on faith the parties' claims of vertical efficiencies."[65] But Vizada offers no theory or argument (or case law) to explain why the efficiencies that are expected from most vertical transactions are unlikely to result from this vertical transaction. As the Commission itself has recognized, "antitrust law and

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Transfer of Control, 19 FCC Rcd 24820 (2004); *Application of New Skies Satellites N.V. (Transferor) and New Skies Satellites B.V. (Transferee) Transfer of Control*, DA 04-3419 (rel. Oct. 27, 2004); *Applications of The News Corp. Ltd. and The DIRECTV Group, Inc. (Transferors) and Constellation, LLC, Carlyle PanAmSat I, LLC, et al. (Transferees) for Authority to Transfer Control of PanAmSat Licensee Corp.*, DA 04-2509 (rel. Aug. 11, 2004); *Application of Gen. Elec. Capital Corp., Transferors, and SES Global, S.A., Transferees, for Consent to Transfer Control*, 16 FCC Rcd 17575 (2001).

[63] Vizada Application for Review at 21 (quoting *Step 2 Order*, ¶ 45).

[64] *See, e.g., SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, 20 FCC Rcd 18290, 18387–88, ¶ 190 (2005) (recognizing that vertical integration "may produce a more efficient organizational form, which can reduce transaction costs, limit free-riding by internalizing incentives, and take advantage of technological economies" and may "reduce prices in the downstream market" due to the "elimination of 'double marginalization'").

[65] Vizada Application for Review at ii.

economic analysis have viewed vertical transactions more favorably in part because vertical mergers, standing alone, do not increase concentration in either the upstream or downstream markets," and may well generate significant efficiencies.[66]

Vizada also ignores the findings the Commission made in approving Step 1: "In general, efficient vertical integration tends to lower various transaction costs relative to reliance on arms-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."[67] Vizada's insistence that the Bureau (and the Commission) demand rigorous proof of efficiencies, even though Inmarsat and Stratos lack market power or the incentive to engage in anticompetitive conduct, is contrary to precedent and the facts.

III. THE BUREAU PROPERLY REJECTED VIZADA'S ASSERTIONS OF POTENTIAL HARM

A. Vizada's Assertions of Harm Do Not Concern Consumers or Competition

Vizada has never explained how Inmarsat's acquisition of Stratos would result in higher prices, lower quality, or reduced availability of services for end users, or would otherwise harm consumers. All of the harms Vizada identifies would impact only its own bottom line. As the Commission has repeatedly recognized, 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*."[68] The Bureau also emphasized the same point, observing that "the expiration of Inmarsat's distribution agreements with its legacy distributors

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[66] *General Motors Corp. and Hughes Elecs. Corp., Transferors and The News Corp. Ltd., Transferee, for Authority to Transfer Control*, 19 FCC Rcd 473, 507–08, ¶ 70 (2004).

[67] *Step 1 Order*, 22 FCC Rcd at 21355, ¶ 62 & n.195 (citing Oliver E. Williamson, *The Economic Institutions of Capitalism*, Ch. 4 (1985) and Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization*, Ch. 13 (2d ed. 1994)).

[68] *Id.* at 21355, ¶ 62 (emphasis in original).

and its proposed acquisition of Stratos Global may change the relationship between Inmarsat and Vizada," which may be "to Vizada's detriment";[69] however, the Commission's "focus is on the effect of the transaction on competition and consumer welfare," and "it does not follow that such a change in distribution arrangements would harm *consumers*."[70]

What Vizada characterizes as "harms" are in fact merger-specific efficiencies that are likely only to enhance—not diminish—consumer welfare, as the Commission recognized in its *Step 1 Order*.[71] Inmarsat should be allowed to evolve its distribution structure in response to market forces so as to generate the greatest benefit. Vizada clings to the misguided notion that forcing Inmarsat to enter the downstream market by building its own distribution arm "from scratch" is somehow better for consumers. There is no reason to assume, however, that forcing Inmarsat to distribute its services in this manner will enhance competition or result in a more efficient distribution of services.

Although Inmarsat will no longer be obligated to use particular distributors after April 14, 2009, it will maintain contractual arrangements with a variety of distributors, ensuring that there remains vigorous competition at every level of the distribution structure. Furthermore, Inmarsat has every incentive and intention to continue using its extensive retail distribution network (with hundreds of retailers in over 65 countries) in order to reach end-users throughout the world. Competition among those retailers will ensure that end-users will continue to have alternatives to access Inmarsat's services, as well as the services of Inmarsat's satellite operator competitors. If end-users had thought they would be adversely impacted by this transaction, then sophisticated

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[69] *Step 2 Order*, ¶ 44.

[70] *Id.* (emphasis in original).

[71] *Step 1 Order* at 21355, ¶ 62.

users of Inmarsat's services (including the federal government and media networks) would have opposed this transaction along side Vizada. Instead, end-users support this transaction.

B. Vizada's Theories of Harm Are Implausible and Contrary to the Record

It is well established that a vertical integration such as this raises competitive concerns only in limited circumstances, namely, (i) when the combined firm has the incentive and ability to foreclose upstream competitors by reducing their ability to distribute or sell their products to consumers; or (ii) when the combined firm has the incentive and ability to foreclose downstream competitors by limiting access to or availability of an essential input.[72] Neither concern is present here, regardless of how broadly or narrowly one might define the market.

The first of these potential harms does not exist here. Vizada has never alleged that this transaction will impact other satellite operators,[73] and as the Commission found in the *Step 1 Order*, a number of alternative distributors (besides Stratos) exist to allow satellite operators to bring their services to consumers.[74] The second concern is also not relevant, because Vizada does not use Inmarsat's services as an "input" for some other product or service. Vizada resells the services as a "turnkey" communications solution, without making any major enhancements, as the Bureau correctly found.[75] The lack of major enhancements distinguishes this transaction

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[72] *See* Letter of Inmarsat plc and Stratos Global Corporation, IB Docket No. 08-143 (filed Dec. 17, 2008) at 5, n. 18 (collecting cases).

[73] *See Step 2 Order*, ¶ 30 n.76 ("We note that no petitioner has raised the concern that Inmarsat's purchase of Stratos Global will reduce the ability of other satellite operators to distribute or sell their services (*e.g.*, as a result of the reduction in the number of independent distributors and retail outlets).").

[74] *See Step 1 Order*, 22 FCC Rcd at 21355, ¶ 61 ("Because Stratos Global is not the only distributor of satellite services, other mobile satellite operators will still have a choice of other distributors should Stratos Global choose to favor Inmarsat.").

[75] *See Step 2 Order*, ¶ 27 ("In general, distributors and resellers, including the legacy distributors, resell Inmarsat's services unbundled with other MSS products and without major enhancements."). Vizada has not challenged that finding in its Application for Review.

from the Commission decisions involving programming for MVPD services, on which Vizada relies to support its theory of competitive harm.[76] Those MVPD cases are also distinguishable because they involved firms with market power, which is not the case here, as both the Commission and the Bureau have found.[77] For the same reason, there was no need to "single out Inmarsat's services as requiring a special type of distribution arrangement to promote 'intra-brand' competition," as the Bureau correctly determined.[78]

Vizada's attempt to characterize this transaction as "a potential horizontal merger" is baseless.[79] The Bureau properly recognized that this transaction is vertical in nature and will have no horizontal effects because the two companies have no overlapping markets.[80] As the Bureau found, Stratos "distributes and retails the satellite services of several MSS and FSS operators, but does not itself own or control any satellites or satellite systems," and Inmarsat "owns a mobile satellite system but . . . does not generally distribute or retail satellite services."[81] Thus, the Bureau correctly concluded that the merger "will not by itself result in greater concentration of control over mobile or fixed satellite systems, their distribution or retail sales."[82] In reality, the "horizontal" arguments that Vizada now raises are merely a failed attempt to dress up the same vertical concerns (namely, the impact on Vizada's business) in different clothing.

It is not competitively significant whether Inmarsat, absent this transaction, would have entered the market as a retail distributor of satellite services. The necessary circumstances that

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[76] *See, e.g.*, Vizada Application for Review at 22 & n.66.

[77] *See Step 1 Order*, 22 FCC Rcd at 21355, ¶ 63; *Step 2 Order*, ¶ 30.

[78] *Step 2 Order*, ¶ 49.

[79] Vizada Application for Review at 23.

[80] *Step 2 Order*, ¶ 29.

[81] *Id.*

[82] *Id.*

Vizada identifies as relevant (concentrated market, high barriers to entry, and few likely entrants) simply are not present here.[83] A robust market currently exists for the retail distribution of satellite services generally (and Inmarsat's services in particular), and that will remain true after this transaction. There are already hundreds of retail distributors of Inmarsat and other mobile satellite services. In fact, Vizada acknowledges as much, and the Bureau agreed in 2007, when it authorized the consolidation of France Telecom and Telenor to create Vizada.[84] Moreover, there generally are no significant barriers to entry in the retail distribution of satellite services.[85] Existing contractual restrictions, which greatly constrain Inmarsat's ability to establish new distribution relationships, will expire on April 14, 2009, making additional entry even easier.[86] Inmarsat's independent entry into the retail distribution business simply would not have altered the competitive landscape.[87]

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[83] Vizada Application for Review at 24.

[84] Telenor ASA and Inceptum 1 AS, Consolidated Response, IB Docket No. 06-225 (filed Feb. 1, 2007) at 3 (observing that there is "vibrant MSS competition," with "large numbers of resellers that market MSS services to end users"); *Vizada Consolidation Order* at 4.

[85] *See, e.g., Republic of Texas Corp. v. Board of Governors of the Federal Reserve System*, 649 F.2d 1026, 1047 (5th Cir. 1981) (holding that where "numerous other potential competitors [are] waiting in the wings," the elimination of one potential entrant "would not be significant").

[86] Existing contractual provisions require that Inmarsat distribute its "traditional" services only through entities with ground facilities, and impose several other qualification criteria. These restrictions benefit only legacy distributors. It is customary for distributors of other services to contract for access to such ground facilities, and after these contractual restrictions expire, all potential Inmarsat distributors will be able to benefit from that same approach.

[87] *Step 1 Order*, 22 FCC Rcd at 21356, ¶ 63 ("[G]iven the structure of the international mobile satellite industry and the availability of alternative vendors for . . . the retail distribution of mobile satellite services, we find that the instant transaction will not augment the market power of either Stratos Global or Inmarsat."); *Step 2 Order*, ¶ 30 n.76 ("Stratos Global is only one of many distributors and retail sales outlets of satellite services").

Each of the cases Vizada cites (*see* Vizada Application for Review at 24 n.70) is readily distinguishable because each involved a concentrated market, which is plainly not the case here. Moreover, even if the market were concentrated, Inmarsat has been contractually prohibited from entering the market before April 2009, and therefore its presence on the sidelines could not have

At bottom, as a horizontal competitor of Stratos, Vizada lacks credibility in asserting concerns about the impact of this transaction on concentration in the retail distribution of satellite services. If this transaction did in fact pose any such threat of increased concentration, Vizada itself would reap the benefits (lesser competition), and would not oppose this transaction.[88]

C. Vizada's Concerns Are Not Transaction-Specific

It is well settled that the Commission will assess only those harms that "arise from" a proposed transaction.[89] The purported harms that Vizada identifies are all tied to the expiration of the favorable distribution arrangement that benefits Vizada and a handful of other legacy distributors. That arrangement is a vestige of Inmarsat's pre-privatization structure, and does not relate to this transaction. After the terms of the existing contracts expire, Inmarsat will be able to distribute its services through a much wider range of companies, and also will be able to sell its services directly to end-users.

Inmarsat has already signed up a number of new distributors, and currently is negotiating with Vizada about a possible continuation of Vizada's role as an Inmarsat distributor. Vizada's real concern is that it will no longer receive the same preferential treatment to which it has grown accustomed. But that is not an issue arising out of this transaction. As the Bureau properly

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"tempered oligopolistic behavior on the part of the existing participants." *United States v. Marine Bancorporation*, 418 U.S. 602, 625 (1974). Thus, at least two essential elements of the "actual potential competition" theory are missing here.

[88] *See, e.g., Hosp. Corp. of Am. v. FTC*, 807 F.2d 1381, 1392 (7th Cir. 1986) ("A rational competitor would not complain just because it thought that [the horizontal transaction] would facilitate collusion. Whether the competitor chose to join a cartel or stay out of it, it would be better off if the cartel were formed than if it were not formed.").

[89] *See, e.g., Applications of Cellco Partnership d/b/a/ Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control*, FCC 08-258, ¶¶ 29, 114, 117 (rel. Nov. 10, 2008) (noting that Commission considers only transaction-specific public interest harms and benefits); *DirecTV-Liberty Order*, 23 FCC Rcd 3265, 3279, ¶ 26 (2008) (reiterating that the Commission "will impose conditions only to remedy harms that arise from the transaction (*i.e.*, transaction-specific harms)").

recognized, Vizada may be concerned "about the potential loss for them of preferred status of distributors receiving lucrative discounts on Inmarsat products as a result of the new distribution agreements," but that is simply not relevant to the public interest inquiry.[90]

Furthermore, as the Bureau noted, "the Commission has a long-standing policy of not interfering with private contractual disputes," and there is no need for the Commission to involve itself in the negotiation process between Inmarsat and Vizada.[91] Even Vizada itself recognized in Step 1 that "the Commission is not the place to address contractual matters arising between Inmarsat and its distributors."[92] The purpose of the Commission's review is "to protect the public interest rather than to provide a forum for the settlement of private disputes."[93] The Commission should reject Vizada's attempt to use this review as an attempt to gain leverage in its private commercial negotiations. In any event, the Commission has asserted continuing oversight authority over satellite distribution arrangements, and can address those issues at the appropriate time, should the need arise.[94]

D. Absent Any Demonstrated Harm, Vizada's Proposed Conditions Were Unwarranted

Vizada contends that this transaction should not "be allowed to move forward without the imposition of essential competitive safeguards,"[95] which the Bureau declined to adopt. Because there is no demonstrable harm to competition arising from this transaction, there is no reason to adopt, or even consider further, the conditions that Vizada proposed before the Bureau. In any

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[90] *Step 2 Order*, ¶ 44.

[91] *Id.*, ¶ 21.

[92] Petition to Deny of VIZADA, Inc., and VIZADA Services LLC (filed June 29, 2007) at ii.

[93] *United Tel. Co. of the Carolinas v. FCC*, 559 F.2d 720, 723 (D.C. Cir. 1977).

[94] *See Step 2 Order*, ¶ 28 n.74.

[95] Vizada Application for Review at 25.

event, Vizada's request that the Commission impose any sort of "structural separation" would be wholly unprecedented—such a severe constraint was historically used only with respect to carriers classified as "dominant," as the Bureau observed.[96] Moreover, the Commission has abandoned that approach even with respect to dominant carriers.[97]

The Bureau also properly declined to attach any specific "non-discrimination" or confidentiality conditions, because Vizada's stated concerns are completely unfounded.[98] As the Bureau determined, "Inmarsat already has entered into distribution agreements with several distributors that include non-discrimination and confidentiality provisions, and Inmarsat has offered Vizada the same terms, which would prevent Inmarsat from discriminating against Vizada or other distributors."[99] Vizada has not alleged or shown that these contractual provisions would not adequately protect its interests. And in any event, if Vizada is unhappy with the proposed distribution arrangement, "it is free to establish distribution arrangements with any of Inmarsat's competitors."[100]

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[96] *Step 2 Order*, ¶ 50.

[97] *See id.*; *see also, 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 271(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements*, 22 FCC Rcd 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 Section 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 not present here.

[98] *See* Vizada Application for Review at 20.

[99] *Step 2 Order*, ¶ 47.

[100] *Id.*

IV. CONCLUSION

The Bureau's approval of the second step of a two-step transaction is supported by the record, and is consistent with the full Commission decision approving the first step, as well as a host of other Commission precedent.

No user of Inmarsat services, and no Stratos customer, has expressed any concern about this transaction. In fact, end users of Inmarsat services (including the United States Government) support this transaction, which will not result in increased concentration in any relevant market. These consumers appreciate that this vertical combination will give them the option to purchase services directly from Inmarsat/Stratos, in the same way they can buy from other satellite providers, instead of their being forced to deal with middlemen like Vizada who may not best serve their needs. As a result, consumers will enjoy considerable benefits, including lower prices, improved quality, and increased availability of satellite services.

The only "harm" that Vizada identifies—a possible change in its relationship with Inmarsat—may occur regardless of this transaction. Moreover, any such change that may impact Vizada's own bottom line simply is not cognizable as a competitive harm.

The Commission should affirm the decision of the International Bureau and deny the Application for Review.

Respectfully submitted,

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March 4, 2009

CERTIFICATE OF SERVICE

I, Timilin Kate Sanders, hereby certify that on this 4th day of March 2009, I caused to be served a true copy of the foregoing *Opposition of Inmarsat plc and Stratos Global Corporation to Application for Review* by first class mail, postage pre-paid (or as otherwise indicated) upon the following:

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