

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Third Annual Report to Congress on Status	)	IB Docket No. 09-16
of Competition in the Provision of Satellite	)	
Services	)	
	)	

**REPLY COMMENTS OF INMARSAT, INC.**

Inmarsat, Inc. (“Inmarsat”) submits the following reply comments in the above-captioned proceeding regarding the state of competition in the provision of satellite services, including mobile services provided via satellite.<sup>1</sup>

Inmarsat responds in these reply comments to the misstatements and mischaracterizations that SkyBitz makes with respect to the state of competition in the provision of satellite services (and mobile satellite services in particular).<sup>2</sup> SkyBitz’s concerns do not comport with the realities of the marketplace. As the MSS/ATC Coalition explained in its opening comments, it would be improper to evaluate competition based on the regulatory classification of a certain spectrum band (*e.g.*, whether allocated for Mobile Satellite Services (“MSS”) or Fixed Satellite Service (“FSS”), or (even more narrowly) based on particular service segments.<sup>3</sup> As explained in greater detail below, the Commission consistently has used a broad-based approach when evaluating the competitive environment with respect to the provision of mobile satellite services

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<sup>1</sup> See “*IB Invites Comment for Third Annual Report to Congress on Status of Competition in the Satellite Services Market*,” Public Notice, DA 09-1045, IB Docket No. 09-16 (May 14, 2009) (“*Public Notice*”).

<sup>2</sup> See SkyBitz, Inc. Comments, IB Docket No. 09-16, at 2–12 (filed June 15, 2009) (“*SkyBitz Comments*”).

<sup>3</sup> See Comments of the MSS/ATC Coalition, IB Docket No. 09-16, at 8–10 (June 15, 2009) (“*MSS/ATC Coalition Comments*”).

and has recognized that vibrant competition exists among providers of mobile satellite services, regardless of the regulatory classification or technology used to provide the service. SkyBitz's arguments to the contrary lack merit.

*First*, SkyBitz argues that the Commission's competition analysis should be based upon the various spectrum bands (e.g., L-Band, VHF, and Ku-Band) because of unique characteristics in each of these bands in connection with the provision of low-data-rate services.<sup>4</sup> These contentions are both legally and factually incorrect.

In preparing its annual report on competition, the Commission should follow a flexible approach that takes into account all relevant factors that bear on the competition analysis, for the reasons explained in the ATC/MSS Coalition Comments.<sup>5</sup> Moreover, SkyBitz's proposed approach of focusing on individual service segments conflicts with the settled approach followed by the Commission, which considers all products or services of reasonable substitutability.

In fact, the Commission's approach to evaluating competition considers products or services that are not exact substitutes, as long as consumers consider those products or services to be effective alternatives.<sup>6</sup> Thus, in the context of mobile satellite services, the Commission has found that, although the services of satellite providers are slightly differentiated from one another, vigorous competition occurs "through the clash of imperfect substitutes."<sup>7</sup> More specifically, the Commission explained that "[e]ach mobile satellite service competes for

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<sup>4</sup> SkyBitz Comments at 5–7.

<sup>5</sup> See MSS/ATC Coalition Comments at 8–11.

<sup>6</sup> See, e.g., *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, 12367–68, ¶ 34 (2008); *Robert M. Franklin, Transferor, and Inmarsat, plc, Transferee, Consolidated Application for Consent to Transfer of Control of Stratos Global Corporation and Its Subsidiaries from an Irrevocable Trust to Inmarsat, plc*, IB Docket No. 08-143, Memorandum Opinion and Order and Declaratory Ruling, DA 09-117, ¶ 38 (rel. Jan. 16, 2009) ("*Inmarsat-Stratos 2009 Order*").

customers on the basis of a distinct profile of advantages and disadvantages, including commercial availability, signal coverage, latency, portability, spectrum bandwidth, reliability, etc.”<sup>8</sup>

*Second*, even if the Commission were to evaluate the provision of low-data-rate services separately from other satellite services, it is simply not the case that this service segment is dominated by two providers (Orbcomm and Inmarsat), as SkyBitz contends.<sup>9</sup> In fact, several providers (in different spectrum bands) have been extremely successful in offering such services, and competition within this segment is intensifying. For example, Globalstar’s customer base has grown significantly since 2007 from a few thousand low-data-rate subscribers to over hundreds of thousands today.<sup>10</sup> Iridium’s low-data-rate service offerings have been the fastest growing segment of its business for the past several years.<sup>11</sup> And Qualcomm (which uses Ku-Band FSS spectrum) has been an industry leader for years with its OmniTRACS and OmniVision low-data-rate offerings.

SkyBitz suggests that effective competition for low-data-rate services does not exist because providers of low-data-rate services tend to have low average monthly revenue per user in comparison to other satellite services.<sup>12</sup> Again, however, SkyBitz’s arguments miss the mark.

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<sup>7</sup> *Inmarsat-Stratos 2009 Order* at ¶ 38.

<sup>8</sup> *Id.*

<sup>9</sup> See SkyBitz Comments at 4.

<sup>10</sup> See Globalstar SEC Form 10-Q (May 11, 2009) (stating that Globalstar had an average of 356,900 voice and data subscribers, a net increase of 22% from the previous year), available at <http://tinyurl.com/globalstar10Q-pdf>.

<sup>11</sup> See Iridium Press Release, *Iridium Reports First Quarter 2009 Results* (June 2, 2009) (stating that Iridium’s machine-to-machine short-burst data subscribers nearly doubled in the first quarter of 2009 in comparison to first quarter 2008, and its service revenue increased 72.7% as compared to the same quarter a year earlier), available at <http://iridium.mediaroom.com/index.php?s=43&item=905>.

<sup>12</sup> *Id.* at 4–5.

The existence of low-data-rate service as a low-margin business confirms that the marketplace is subject to effective competition: providers simply cannot extract the level of profits one would expect if providers had the type of influence that SkyBitz asserts. To the extent that SkyBitz's comments are driven by SkyBitz's belief that it is entitled to a bigger share of end-user revenues, that is not a cognizable concern. The Commission analyzes competitive effect "from the point of view of possible effects on industry competition and consumer welfare and *not* simply the possible effects on individual competitors."<sup>13</sup>

*Third*, SkyBitz is incorrect that, from a technical perspective, L-Band satellite operators—and, in particular, geostationary earth orbit ("GEO") L-Band satellite operators—are "uniquely situated" to provide low-data-rate services on a competitive basis.<sup>14</sup> SkyBitz points to "differences in frequency bands, geographic coverage, satellite orbit, and end markets" in an attempt to show that "there is virtually no competition between these satellite operators."<sup>15</sup> However, SkyBitz avoids entirely the salient question—whether these different characteristics prevent consumers from treating the services of different satellite operators as substitutes. As the Commission has recognized, although satellite providers may offer differentiated services, "[s]ubstitutes need not be perfect to prevent the emergence of significant market power."<sup>16</sup>

The data discussed above belie SkyBitz's claim that "there are no viable alternatives to the L-Band that are capable of meeting the performance and technical metrics" demanded by low-data-rate service subscribers.<sup>17</sup> Orbcomm, for example, successfully uses VHF to deliver cost-effective terminals by leveraging widely available off-the-shelf radio components. And Ku-

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<sup>13</sup> *Inmarsat-Stratos 2007 Order*, 22 FCC Rcd at 21355, ¶ 62.

<sup>14</sup> SkyBitz Comments at 7.

<sup>15</sup> *Id.* at 8.

<sup>16</sup> *Inmarsat-Stratos 2009 Order* at ¶ 38 n.101.

band providers (such as Qualcomm) have been highly successful in delivering low-data-rate solutions to small mobile assets, enabling them to take a strong position in terms of number of subscribers.

SkyBitz attempts to dismiss the competitive relevance of low earth orbit (“LEO”) satellite networks, arguing that a single LEO satellite has a smaller geographic footprint, and the network may have higher latency in the communication link than a GEO satellite.<sup>18</sup> The marketplace does not see things that way. Rather, LEO and GEO systems compete using their respective advantages in connection with the provision of low-data-rate services. Orbcomm, which uses a LEO satellite network, has secured several very large service contracts with blue chip companies such as General Electric (supplier to Walmart), Caterpillar, Volvo, and Komatsu, to name a few. Iridium and Globalstar also operate LEO constellations, and their substantial growth in low-data-rate services over the last several years confirms that LEO architecture does not prevent providers from competing effectively in this service segment. In fact, the needs of many consumers are better served with LEO constellations, particularly where they have assets stationed in a position where the satellite terminal would not have a line-of-sight view of a GEO satellite.

*Fourth*, SkyBitz argues that differences in terminals and other equipment make it “extremely difficult for end-users to migrate to a different band.”<sup>19</sup> Again, however, SkyBitz disregards the facts and the law. In response to similar arguments about consumer investments in equipment, terminals, training, standardization, and operational experience, the Commission observed that it is common for businesses to switch suppliers, which “typically involves the

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<sup>17</sup> SkyBitz Comments at 8.

<sup>18</sup> SkyBitz Comments at 9.

<sup>19</sup> SkyBitz Comments at 13.

retirement or sale of supplier-specific equipment, new training, etc.”<sup>20</sup> The terminals used in providing low-data-rate services generally have a limited life span (between 2½ and 5 years) and often require significant maintenance and/or repairs. Within that time frame, in addition to the existing providers described above, at least three satellite operators (ICO, Terrestar, and SkyTerra) have already or are expected to deploy next-generation satellites that will support communications services in a range of service segments, using sophisticated, small form-factor devices that could be used to support low-data-rate services as well as other offerings. Furthermore, low-data-rate service providers (including SkyBitz) use web-based applications that enable consumers to track the position and condition of their assets—and these applications can be used across other non-GEO satellite platforms, including Globalstar, Iridium, and Orbcomm. In fact, SkyBitz is already offering Globalstar-based solutions using its existing applications.<sup>21</sup>

### **Conclusion**

Inmarsat agrees with the position detailed in the MSS/ATC Coalition’s opening comments, that an examination of *all* substitutable services available to consumers shows that satellite-based providers face vigorous competition across platforms for the provision of satellite services, including mobile satellite services. SkyBitz’s arguments to the contrary lack merit. Accordingly, the Commission should find that the provision of satellite services, including mobile satellite services, is subject to effective competition.

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<sup>20</sup> *Inmarsat-Stratos 2009 Order* at ¶ 39.

<sup>21</sup> See SkyBitz Press Release, *SkyBitz Launches Global Solution to Meet Customer Demands for Managing a Wide Range of Assets* (June 11, 2008) (stating that SkyBitz will offer a new service called GLS 100 for mobile asset tracking and information management for its

Respectfully submitted,

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expanding international customer base using Globalstar MSS data services), available at [http://www.skybitz.com/newsroom/press\\_release.jsp?id=841](http://www.skybitz.com/newsroom/press_release.jsp?id=841).