

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

In the Matter of )  
 )  
Report to Congress Regarding the ) IB Docket No. 10-70  
ORBIT Act )  
 )

To: Office of the Secretary  
Attention: International Bureau

**SURREPLY OF GLOBECOMM SYSTEMS INC.**

Globecomm Systems Inc. (“Globecomm”) submits this Surreply to Intelsat’s Reply Comments filed April 21, 2010, pursuant to the Order Establishing Period for Surreply, released April 22, 2010.<sup>1</sup> In its Reply Comments, Intelsat argues that the various Comments filed by satellite industry members during the pleading cycle in this proceeding are: in the wrong docket, filed out of the wrong motivation, and mistakenly assess the competitive state of the satellite space segment market. We briefly address each of these points in turn.

First, Intelsat claims that this docket has the “limited purpose” of simply confirming that Intelsat is now a fully privatized company.<sup>2</sup> If that were so, this entire proceeding would be an empty ritual—as Intelsat itself points out, its privatization was complete many years ago.<sup>3</sup> Moreover, the International Bureau expressly set out the purpose of this proceeding in the Public Notice requesting Comments: “The purpose of this notice is to provide an opportunity for industry and consumers to file additional comments, particularly with respect to the impact of

---

<sup>1</sup> *International Bureau Report to Congress Regarding the ORBIT Act*, Order Establishing Period for Surreply, DA 10-681 (rel. April 22, 2010).

<sup>2</sup> *Reply Comments of Intelsat* at 3.

<sup>3</sup> *Reply Comments of Intelsat* at 1-2; *See also FCC Report to Congress as Required by the ORBIT Act: Tenth Report*, 24 FCC Rcd 8686, 8687-93 (2009).

privatization on U.S. industry, jobs, and industry access to the global marketplace.”<sup>4</sup> The Comments in this proceeding are a direct response to this broadly-worded solicitation, which clearly assumes that privatization is technically complete and seeks information regarding its ultimate impact on the industry.

Second, Intelsat repeatedly states that its “disappointed competitors” participated in this proceeding in an inappropriate “attempt to inject the FCC into ongoing commercial disputes.”<sup>5</sup> This accusation misses the mark for two reasons. First, the comments and views contained in the Comments directly respond to the information sought by the Public Notice. Second, this—or any—*ad hominem* attack is irrelevant as well as baseless. The observations and arguments presented in this proceeding cannot be reduced or abolished by attacking the motivations of the commenters.<sup>6</sup> The Comments stand on their own merits.

Third, Intelsat claims, without denying anticompetitive conduct, that if downstream service providers don’t like it they can go elsewhere. To show that intermediary providers “have access to a number of space segment providers,” it lists a number of potentially competitive providers. This argument ignores numerous market realities. Intelsat’s fleet size means that in certain regions it may be the single dominant carrier. As Intelsat acknowledges, many of these “potentially competitive providers” are in fact providing service only in limited geographic areas.<sup>7</sup> Customers’ requirements may be such that expansive geographic coverage is required to

---

<sup>4</sup> Public Notice, International Bureau Information: Report to Congress Regarding the ORBIT Act, DA 10-448 (rel. March 17, 2010); *See also* ORBIT Act, Pub. L. 106-180, 114 Stat. 48 (2000), Sec. 646(b).

<sup>5</sup> *Reply Comments of Intelsat* at 2,3,8-10.

<sup>6</sup> Globecommm acknowledges that it bid on the U.S. government contract referenced by Intelsat in its Reply Comments. *Reply Comments of Intelsat* at 9. However, Globecommm has not filed a bid protest with regard to that contract and contrary to Intelsat’s assertion, redress of this dispute is not a factor in Globecommm’s comments in this proceeding.

<sup>7</sup> In particular, we again note the lack of competition for C-band capacity in the AOR/POR orbital slots, a situation that is not remedied by any of the new or planned satellites Intelsat mentions. *See Comments of Globecommm Systems, Inc.*, filed April 7, 2010, at 4.

allow capacity to be moved around to respond to changing requirements during the life of the contract. Additionally, customers' technical requirements may limit the choice of space segment providers. For example, U.S. government customers require NSA encryption under International Traffic in Arms Regulations (ITAR), which few capacity providers can accommodate. These conditions limit the availability of fully competitive providers. In practical terms, there is often no alternative to Intelsat.

The most damaging market reality, however, is that Intelsat actively shuts off access to other providers by leveraging its market power into exclusive teaming agreements that "lock up" other space segment providers. These agreements require other providers to sell exclusively through Intelsat, so that when an intermediary service provider approaches an Intelsat competitor, it is referred back to Intelsat General Corporation ("IGC") for pricing. In some cases, exclusive agreements have even restricted access to frequencies where Intelsat has no capacity but where IGC competes, such as the X-band.<sup>8</sup> The root cause of this behavior, Intelsat's complete conflation of interests with IGC, is explicit in its Reply Comments, in which Intelsat identifies its own wholesale customers as "competitors."<sup>9</sup>

Having described the problem from an industry perspective, Globecom recognizes that this proceeding is only the first step toward what may be a long road, involving many regulatory players, towards realizing the central goal of the ORBIT Act of creating a competitive environment in all sectors of the satellite industry. This goal was not, and could not have been, achieved in a single motion by privatizing Intelsat. Additional steps are needed to foster competitiveness on an ongoing basis and information and transparency are crucial to this

---

<sup>8</sup> See *Comments of ARTEL, Inc.*, filed April 7, 2010, at 6 (citing Joint Press Release, Intelsat General Corporation and Paradigm Secure Communications Ltd., Intelsat General Selected as Preferred U.S. Distributor of Paradigm's Ex-band, UHF Services (Sep. 14, 2009)).

<sup>9</sup> *Reply Comments of Intelsat* at 8.

process. Therefore, Globecomm encourages Congress and the Commission to actively investigate the state of the market so that any future decision-making will have a sound basis in fact.

Respectfully submitted,

/s/

---

Michelle A. McClure  
Frank R. Jazzo  
Christine E. Goepp\*  
FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
(703) 812-0400  
[mcclure@fhhlaw.com](mailto:mcclure@fhhlaw.com)  
Counsel for Globecomm Systems Inc.  
\*Licensed in Massachusetts and the  
District of Columbia

April 28, 2010