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106TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 106–509

OPEN-MARKET REORGANIZATION FOR THE BETTERMENT OF INTERNATIONAL TELECOMMUICATIONS ACT (ORBIT ACT)

MARCH 2, 2000.—Ordered to be printed

Mr. BLILEY, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 376]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 376), to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Open-market Reorganization for the Betterment of International Telecommunications Act" or the "ORBIT Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.

SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF 1962.

The Communications Satellite Act of 1962 (47 U.S.C. 701) is amended by adding at the end the following new title:

79–006

"TITLE VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

"Subtitle A—Actions To Ensure Pro-Competitive Privatization

"SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LICENSING.

"(a) LICENSING FOR SEPARATED ENTITIES.—

"(1) COMPETITION TEST.—The Commission may not issue a license or construction permit to any separated entity, or renew or permit the assignment or use of any such license or permit, or authorize the use by any entity subject to United States jurisdiction of any space segment owned, leased, or operated by any separated entity, unless the Commission determines that such issuance, renewal, assignment, or use will not harm competition in the telecommunications market of the United States. If the Commission does not make such a determination, it shall deny or revoke authority to use space segment owned, leased, or operated by the separated entity to provide services to, from, or within the United States.

"(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621 and 623, and shall not make such a determination unless the Commission determines that the privatization of any separated entity is consistent with such criteria.

"(b) LICENSING FOR INTELSAT, INMARSAT, AND SUCCESSOR ENTITIES.—

"(1) COMPETITION TEST.—

"(A) IN GENERAL.—In considering the application of INTELSAT, Inmarsat, or their successor entities for a license or construction permit, or for the renewal or assignment or use of any such license or permit, or in considering the request of any entity subject to United States jurisdiction for authorization to use any space segment owned, leased, or operated by INTELSAT, Inmarsat, or their successor entities, to provide non-core services to, from, or within the United States, the Commission shall determine whether—

"(i) after April 1, 2001, in the case of INTELSAT and its successor entities, INTELSAT and any successor entities have been privatized in a manner that will harm competition in the telecommunications markets of the United States; or

"(ii) after April 1, 2000, in the case of Inmarsat and its successor entities, Inmarsat and any successor entities have been privatized in a manner that will harm competition in the telecommunications markets of the United States.

"(B) CONSEQUENCES OF DETERMINATION.—If the Commission determines that such competition will be harmed or that grant of such application or request for authority is

not otherwise in the public interest, the Commission shall limit through conditions or deny such application or request, and limit or revoke previous authorizations to provide non-core services to, from, or within the United States. After due notice and opportunity for comment, the Commission shall apply the same limitations, restrictions, and conditions to all entities subject to United States jurisdiction using space segment owned, leased, or operated by INTELSAT, Inmarsat, or their successor entities.

"(C) NATIONAL SECURITY, LAW ENFORCEMENT, AND PUBLIC SAFETY.—The Commission shall not impose any limitation, condition, or restriction under subparagraph (B) in a manner that will, or is reasonably likely to, result in limitation, denial, or revocation of authority for non-core services that are used by and required for a national security agency or law enforcement department or agency of the United States, or used by and required for, and otherwise in the public interest, any other Department or Agency of the United States to protect the health and safety of the public. Such services may be obtained by the United States directly from INTELSAT, Inmarsat, or a successor entity, or indirectly through COMSAT, or authorized carriers or distributors of the successor entity.

"(D) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to preclude the Commission from acting upon applications of INTELSAT, Inmarsat, or their successor entities prior to the latest date set out in section 621(5)(A), including such actions as may be necessary for the United States to become the licensing jurisdiction for INTELSAT, but the Commission shall condition a grant of authority pursuant to this subsection upon compliance with sections 621 and 622.

"(2) CRITERIA FOR COMPETITION TEST.—In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 621, 622, and 624, and shall determine that competition in the telecommunications markets of the United States will be harmed unless the Commission finds that the privatization referred to in paragraph (1) is consistent with such criteria.

"(3) CLARIFICATION: COMPETITIVE SAFEGUARDS.—In making its licensing decisions under this subsection, the Commission shall consider whether users of non-core services provided by INTELSAT or Inmarsat or successor or separated entities are able to obtain non-core services from providers offering services other than through INTELSAT or Inmarsat or successor or separated entities, at competitive rates, terms, or conditions. Such consideration shall also include whether such licensing decisions would require users to replace equipment at substantial costs prior to the termination of its design life. In making its licensing decisions, the Commission shall also consider whether competitive alternatives in individual markets do not exist because they have been foreclosed due to anticompetitive actions undertaken by or resulting from the INTELSAT or Inmarsat systems. Such licensing decisions shall be made in a manner

which facilitates achieving the purposes and goals in this title and shall be subject to notice and comment.

"(c) ADDITIONAL CONSIDERATIONS IN DETERMINATIONS.—In making its determinations and licensing decisions under subsections (a) and (b), the Commission shall construe such subsections in a manner consistent with the United States obligations and commitments for satellite services under the Fourth Protocol to the General Agreement on Trade in Services.

"(d) INDEPENDENT FACILITIES COMPETITION.—Nothing in this section shall be construed as precluding COMSAT from investing in or owning satellites or other facilities independent from INTELSAT and Inmarsat, and successor or separated entities, or from providing services through reselling capacity over the facilities of satellite systems independent from INTELSAT and Inmarsat, and successor or separated entities. This subsection shall not be construed as restricting the types of contracts which can be executed or services which may be provided by COMSAT over the independent satellites or facilities described in this subsection.

"SEC. 602. INCENTIVES; LIMITATION ON EXPANSION PENDING PRIVATIZATION.

"(a) LIMITATION.—Until INTELSAT, Inmarsat, and their successor or separate entities are privatized in accordance with the requirements of this title, INTELSAT, Inmarsat, and their successor or separate entities, respectively, shall not be permitted to provide additional services. The Commission shall take all necessary measures to implement this requirement, including denial by the Commission of licensing for such services.

"(b) ORBITAL LOCATION INCENTIVES.—Until such privatization is achieved, the United States shall oppose and decline to facilitate applications by such entities for new orbital locations to provide such services.

"Subtitle B—Federal Communications Commission Licensing Criteria: Privatization Criteria

"SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETITIVE PRIVATIZATION OF INTELSAT AND INMARSAT.

"The President and the Commission shall secure a pro-competitive privatization of INTELSAT and Inmarsat that meets the criteria set forth in this section and sections 622 through 624. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of subtitle A:

"(1) DATES FOR PRIVATIZATION.—Privatization shall be obtained in accordance with the criteria of this title of—

"(A) INTELSAT as soon as practicable, but no later than April 1, 2001; and

"(B) Inmarsat as soon as practicable, but no later than July 1, 2000.

"(2) INDEPENDENCE.—The privatized successor entities and separated entities of INTELSAT and Inmarsat shall operate as independent commercial entities, and have a pro-competitive ownership structure. The successor entities and separated enti-

ties of INTELSAT and Inmarsat shall conduct an initial public offering in accordance with paragraph (5) to achieve such independence. Such offering shall substantially dilute the aggregate ownership of such entities by such signatories or former signatories. In determining whether a public offering attains such substantial dilution, the Commission shall take into account the purposes and intent, privatization criteria, and other provisions of this title, as well as market conditions. No intergovernmental organization, including INTELSAT or Inmarsat, shall have—

"(A) an ownership interest in INTELSAT or the successor or separated entities of INTELSAT; or

"(B) more than minimal ownership interest in Inmarsat or the successor or separated entities of Inmarsat.

"(3) TERMINATION OF PRIVILEGES AND IMMUNITIES.—The preferential treatment of INTELSAT and Inmarsat shall not be extended to any successor entity or separated entity of INTELSAT or Inmarsat. Such preferential treatment includes—

"(A) privileged or immune treatment by national governments;

"(B) privileges or immunities or other competitive advantages of the type accorded INTELSAT and Inmarsat and their signatories through the terms and operation of the INTELSAT Agreement and the associated Headquarters Agreement and the Inmarsat Convention; and

"(C) preferential access to orbital locations.

Access to new, or renewal of access to, orbital locations shall be subject to the legal or regulatory processes of a national government that applies due diligence requirements intended to prevent the warehousing of orbital locations.

"(4) PREVENTION OF EXPANSION DURING TRANSITION.—During the transition period prior to privatization under this title, INTELSAT and Inmarsat shall be precluded from expanding into additional services.

"(5) CONVERSION TO STOCK CORPORATIONS.—Any successor entity or separated entity created out of INTELSAT or Inmarsat shall be a national corporation or similar accepted commercial structure, subject to the laws of the nation in which incorporated, as follows:

"(A) An initial public offering of securities of any successor entity or separated entity—

"(i) shall be conducted, for the successor entities of INTELSAT, on or about October 1, 2001, except that the Commission may extend this deadline in consideration of market conditions and relevant business factors relating to the timing of an initial public offering, but such extensions shall not permit such offering to be conducted later than December 31, 2002; and

"(ii) shall be conducted, for the successor entities of Inmarsat, on or about October 1, 2000, except that the Commission may extend this deadline in consideration of market conditions and relevant business factors re-

lating to the timing of an initial public offering, but to no later than December 31, 2001.

"(B) The shares of any successor entities and separated entities shall be listed for trading on one or more major stock exchanges with transparent and effective securities regulation.

"(C) A majority of the members of the board of directors of any successor entity or separated entity shall not be directors, employees, officers, or managers or otherwise serve as representatives of any signatory or former signatory. No member of the board of directors of any successor or separated entity shall be a director, employee, officer or manager of any intergovernmental organization remaining after the privatization.

"(D) Any successor entity or separated entity shall—

"(i) have a board of directors with a fiduciary obligation;

"(ii) have no officers or managers who (I) are officers or managers of any signatories or former signatories, or (II) have any direct financial interest in or financial relationship to any signatories or former signatories, except that such interest may be managed through a blind trust or similar mechanism;

"(iii) have no directors, officers, or managers who hold such positions in any intergovernmental organization; and

"(iv) in the case of a separated entity, have no officers or directors, who (I) are officers or managers of any intergovernmental organization, or (II) have any direct financial interest in or financial relationship to any international organization, except that such interest may be managed through a blind trust or similar mechanism.

"(E) Any transactions or other relationships between or among any successor entity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

"(6) REGULATORY TREATMENT.—Any successor entity or separated entity created after the date of enactment of this title shall apply through the appropriate national licensing authorities for international frequency assignments and associated orbital registrations for all satellites.

"(7) COMPETITION POLICIES IN DOMICILIARY COUNTRY.—Any successor entity or separated entity shall be subject to the jurisdiction of a nation or nations that—

"(A) have effective laws and regulations that secure competition in telecommunications services;

"(B) are signatories of the World Trade Organization Basic Telecommunications Services Agreement; and

"(C) have a schedule of commitments in such Agreement that includes non-discriminatory market access to their satellite markets.

"SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) TECHNICAL COORDINATION UNDER INTELSAT AGREEMENTS.—Technical coordination shall not be used to impair competition or competitors, and shall be conducted under International Telecommunication Union procedures and not under Article XIV(d) of the INTELSAT Agreement.

"SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED ENTITIES.

"In securing the privatizations required by section 621, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of subtitle A:

"(1) DATE FOR PUBLIC OFFERING.—Within one year after any decision to create any separated entity, a public offering of the securities of such entity shall be conducted. In the case of a separated entity created before January 1, 1999, such public offering shall be conducted no later than July 1, 2000, except that the Commission may extend this deadline in consideration of market conditions and relevant business factors relating to the timing of an initial public offering, but such extensions shall not permit such offering to be conducted later than July 31, 2001.

"(2) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of any separated entity shall be individuals who are officers, directors, or employees of INTELSAT.

"(3) SPECTRUM ASSIGNMENTS.—After the initial transfer which may accompany the creation of a separated entity, the portions of the electromagnetic spectrum assigned as of the date of enactment of this title to INTELSAT shall not be transferred between INTELSAT and any separated entity.

"(4) REAFFILIATION PROHIBITED.—Any merger or ownership or management ties or exclusive arrangements between a privatized INTELSAT or any successor entity and any separated entity shall be prohibited until 11 years after the completion of INTELSAT privatization under this title.

"SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.

"In securing the privatizations required by section 621, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of subtitle A:

"(1) REAFFILIATION PROHIBITED.—Any merger, ownership of more than one percent of the voting securities, or management ties or exclusive arrangements between Inmarsat or any successor entity or separated entity and ICO shall be prohibited until 15 years after the completion of Inmarsat privatization under this title.

"(2) INTERLOCKING DIRECTORATES OR EMPLOYEES.—None of the officers, directors, or employees of Inmarsat or any successor entity or separated entity shall be individuals who are officers, directors, or employees of ICO.

"(3) PRESERVATION OF THE GMDSS.—The United States shall seek to preserve space segment capacity of the GMDSS.

"SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZATION.

"(a) NTIA DETERMINATION.—

"(1) DETERMINATION REQUIRED.—Within 180 days after the date of enactment of this section, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

"(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

"(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

"(2) CONSULTATION.—The Secretary's determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country's actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

"(b) IMPOSITION OF COST-BASED SETTLEMENT RATE.—Notwithstanding—

"(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services; and

"(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

"(c) SETTLEMENTS POLICY.—The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

"Subtitle C—Deregulation and Other Statutory Changes

"SEC. 641. ACCESS TO INTELSAT.

"(a) ACCESS PERMITTED.—Beginning on the date of enactment of this title, users or providers of telecommunications services shall be permitted to obtain direct access to INTELSAT telecommunications services and space segment capacity through purchases of such capacity or services from INTELSAT. Such direct access shall be at the level commonly referred to by INTELSAT, on the date of enactment of this title, as 'Level III'.

"(b) RULEMAKING.—Within 180 days after the date of enactment of this title, the Commission shall complete a rulemaking, with notice and opportunity for submission of comment by interested per-

sons, to determine if users or providers of telecommunications services have sufficient opportunity to access INTELSAT space segment capacity directly from INTELSAT to meet their service or capacity requirements. If the Commission determines that such opportunity to access does not exist, the Commission shall take appropriate action to facilitate such direct access pursuant to its authority under this Act and the Communications Act of 1934. The Commission shall take such steps as may be necessary to prevent the circumvention of the intent of this section.

"(c) CONTRACT PRESERVATION.—Nothing in this section shall be construed to permit the abrogation or modification of any contract.

"SEC. 642. SIGNATORY ROLE.

"(a) LIMITATIONS ON SIGNATORIES.—

"(1) NATIONAL SECURITY LIMITATIONS.—The Federal Communications Commission, after a public interest determination, in consultation with the executive branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

"(2) NO SIGNATORIES REQUIRED.—The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 621, 622, and 624.

"(b) CLARIFICATION OF PRIVILEGES AND IMMUNITIES OF COMSAT.—

"(1) GENERALLY NOT IMMUNIZED.—Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

"(2) LIMITED IMMUNITY.—COMSAT or any successor in interest shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the intergovernmental satellite organizations.

"(3) NO JOINT OR SEVERAL LIABILITY.—If COMSAT is found liable for any action taken in its status as a signatory or a representative of the party to INTELSAT, any such liability shall be limited to the portion of the judgment that corresponds to COMSAT's percentage of the ownership of INTELSAT at the time the activity began which led to the liability.

"(4) PROVISIONS PROSPECTIVE.—Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before the date of enactment of this title.

"(c) PARITY OF TREATMENT.—Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

"SEC. 643. ELIMINATION OF PROCUREMENT PREFERENCES.

"Nothing in this title or the Communications Act of 1934 shall be construed to authorize or require any preference, in Federal Gov-

ernment procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

"SEC. 644. ITU FUNCTIONS.

"(a) TECHNICAL COORDINATION.—The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

"(b) ITU NOTIFYING ADMINISTRATION.—The President and the Commission shall take the action necessary to ensure that the United States remains the ITU notifying administration for the privatized INTELSAT's existing and future orbital slot registrations.

"SEC. 645. TERMINATION OF COMMUNICATIONS SATELLITE ACT OF 1962 PROVISIONS.

"Effective on the dates specified, the following provisions of this Act shall cease to be effective:

"(1) Date of enactment of this title: Paragraphs (1), (5) and (6) of section 201(a); section 201(b); paragraphs (1), (3) through (5), and (8) through (10) of section 201(c); section 303; section 304; section 502; section 503; paragraphs (2) and (4) of section 504(a); and section 504(c).

"(2) Upon the transfer of assets to a successor entity and receipt by signatories or former signatories (including COMSAT) of ownership shares in the successor entity of INTELSAT in accordance with appropriate arrangements determined by INTELSAT to implement privatization: Section 305.

"(3) On the effective date of a Commission order determining under section 601(b)(2) that Inmarsat privatization is consistent with criteria in sections 621 and 624: Sections 504(b) and 504(d).

"(4) On the effective date of a Commission order determining under section 601(b)(2) that INTELSAT privatization is consistent with criteria in sections 621 and 622: Section 102; section 103(7); paragraphs (2) through (4) and (7) of section 201(a); paragraphs (2), (6), and (7) of section 201(c); section 301; section 302; section 401; section 402; section 403; and section 404.

"SEC. 646. REPORTS TO CONGRESS.

"(a) ANNUAL REPORTS.—The President and the Commission shall report to the Committees on Commerce and International Relations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the Senate within 90 calendar days of the enactment of this title, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this title. Such reports shall be made available immediately to the public.

"(b) CONTENTS OF REPORTS.—The reports submitted pursuant to subsection (a) shall include the following:

"(1) Progress with respect to each objective since the most recent preceding report.

"(2) Views of the Parties with respect to privatization.

"(3) Views of industry and consumers on privatization.

"(4) Impact privatization has had on United States industry, United States jobs, and United States industry's access to the global marketplace.

"SEC. 647. SATELLITE AUCTIONS.

"Notwithstanding any other provision of law, the Commission shall not have the authority to assign by competitive bidding orbital locations or spectrum used for the provision of international or global satellite communications services. The President shall oppose in the International Telecommunication Union and in other bilateral and multilateral fora any assignment by competitive bidding of orbital locations or spectrum used for the provision of such services.

"SEC. 648. EXCLUSIVITY ARRANGEMENTS.

"(a) IN GENERAL.—No satellite operator shall acquire or enjoy the exclusive right of handling telecommunications to or from the United States, its territories or possessions, and any other country or territory by reason of any concession, contract, understanding, or working arrangement to which the satellite operator or any persons or companies controlling or controlled by the operator are parties.

"(b) EXCEPTION.—In enforcing the provisions of this section, the Commission—

"(1) shall not require the termination of existing satellite telecommunications services under contract with, or tariff commitment to, such satellite operator; but

"(2) may require the termination of new services only to the country that has provided the exclusive right to handle telecommunications, if the Commission determines the public interest, convenience, and necessity so requires.

"Subtitle D—Negotiations To Pursue Privatization

"SEC. 661. METHODS TO PURSUE PRIVATIZATION.

"The President shall secure the pro-competitive privatizations required by this title in a manner that meets the criteria in subtitle B.

"Subtitle E—Definitions

"SEC. 681. DEFINITIONS.

"(a) IN GENERAL.—As used in this title:

"(1) INTELSAT.—The term 'INTELSAT' means the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization (INTELSAT).

"(2) INMARSAT.—The term 'Inmarsat' means the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Organization.

"(3) SIGNATORIES.—The term 'signatories'—

"(A) in the case of INTELSAT, or INTELSAT successors or separated entities, means a Party, or the tele-

communications entity designated by a Party, that has signed the Operating Agreement and for which such Agreement has entered into force; and

"(B) in the case of Inmarsat, or Inmarsat successors or separated entities, means either a Party to, or an entity that has been designated by a Party to sign, the Operating Agreement.

"(4) PARTY.—The term 'Party'—

"(A) in the case of INTELSAT, means a nation for which the INTELSAT agreement has entered into force; and

"(B) in the case of Inmarsat, means a nation for which the Inmarsat convention has entered into force.

"(5) COMMISSION.—The term 'Commission' means the Federal Communications Commission.

"(6) INTERNATIONAL TELECOMMUNICATION UNION.—The term 'International Telecommunication Union' means the intergovernmental organization that is a specialized agency of the United Nations in which member countries cooperate for the development of telecommunications, including adoption of international regulations governing terrestrial and space uses of the frequency spectrum as well as use of the geostationary satellite orbit.

"(7) SUCCESSOR ENTITY.—The term 'successor entity'—

"(A) means any privatized entity created from the privatization of INTELSAT or Inmarsat or from the assets of INTELSAT or Inmarsat; but

"(B) does not include any entity that is a separated entity.

"(8) SEPARATED ENTITY.—The term 'separated entity' means a privatized entity to whom a portion of the assets owned by INTELSAT or Inmarsat are transferred prior to full privatization of INTELSAT or Inmarsat, including in particular the entity whose structure was under discussion by INTELSAT as of March 25, 1998, but excluding ICO.

"(9) ORBITAL LOCATION.—The term 'orbital location' means the location for placement of a satellite on the geostationary orbital arc as defined in the International Telecommunication Union Radio Regulations.

"(10) SPACE SEGMENT.—The term 'space segment' means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment used to support the operation of satellites owned or leased by INTELSAT, Inmarsat, or a separated entity or successor entity.

"(11) NON-CORE SERVICES.—The term 'non-core services' means, with respect to INTELSAT provision, services other than public-switched network voice telephony and occasional-use television, and with respect to Inmarsat provision, services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers.

"(12) ADDITIONAL SERVICES.—The term 'additional services' means—

"(A) for Inmarsat, those non-maritime or non-aeronautical mobile services in the 1.5 and 1.6 Ghz band on planned satellites or the 2 Ghz band; and

"(B) for INTELSAT, direct-to-home (DTH) or direct broadcast satellite (DBS) video services, or services in the Ka or V bands.

"(13) INTELSAT AGREEMENT.—The term 'INTELSAT Agreement' means the Agreement Relating to the International Telecommunications Satellite Organization ('INTELSAT'), including all its annexes (TIAS 7532, 23 UST 3813).

"(14) HEADQUARTERS AGREEMENT.—The term 'Headquarters Agreement' means the International Telecommunication Satellite Organization Headquarters Agreement (November 24, 1976) (TIAS 8542, 28 UST 2248).

"(15) OPERATING AGREEMENT.—The term 'Operating Agreement' means—

"(A) in the case of INTELSAT, the agreement, including its annex but excluding all titles of articles, opened for signature at Washington on August 20, 1971, by Governments or telecommunications entities designated by Governments in accordance with the provisions of the Agreement; and

"(B) in the case of Inmarsat, the Operating Agreement on the International Maritime Satellite Organization, including its annexes.

"(16) INMARSAT CONVENTION.—The term 'Inmarsat Convention' means the Convention on the International Maritime Satellite Organization (Inmarsat) (TIAS 9605, 31 UST 1).

"(17) NATIONAL CORPORATION.—The term 'national corporation' means a corporation the ownership of which is held through publicly traded securities, and that is incorporated under, and subject to, the laws of a national, state, or territorial government.

"(18) COMSAT.—The term 'COMSAT' means the corporation established pursuant to title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.), or the successor in interest to such corporation.

"(19) ICO.—The term 'ICO' means the company known, as of the date of enactment of this title, as ICO Global Communications, Inc.

"(20) GLOBAL MARITIME DISTRESS AND SAFETY SERVICES OR GMDSS.—The term 'global maritime distress and safety services' or 'GMDSS' means the automated ship-to-shore distress alerting system which uses satellite and advanced terrestrial systems for international distress communications and promoting maritime safety in general. The GMDSS permits the worldwide alerting of vessels, coordinated search and rescue operations, and dissemination of maritime safety information.

"(21) NATIONAL SECURITY AGENCY.—The term 'national security agency' means the National Security Agency, the Director of Central Intelligence and the Central Intelligence Agency, the Department of Defense, and the Coast Guard.

"(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title that are defined in section 3

of the Communications Act of 1934 have the meanings provided in such section.".

And the House agree to the same.

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 376) to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment.

The managers on the part of the House and Senate met on February 29, 2000, and reconciled the differences between the two bills.

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

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