

(d) Basis for enactment

This section is enacted as an exercise of the enforcement power of the Congress under section 5 of the Fourteenth Amendment to the Constitution and the power of the Congress to regulate commerce with foreign nations, among the several States, and with Indian tribes.

(Pub. L. 106-81, §4, Oct. 26, 1999, 113 Stat. 1288.)

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 615b. Definitions

As used in this Act:

(1) Secretary

The term “Secretary” means the Secretary of Transportation.

(2) State

The term “State” means any of the several States, the District of Columbia, or any territory or possession of the United States.

(3) Public safety answering point; PSAP

The term “public safety answering point” or “PSAP” means a facility that has been designated to receive 9-1-1 calls and route them to emergency service personnel.

(4) Wireless carrier

The term “wireless carrier” means a provider of commercial mobile services or any other radio communications service that the Federal Communications Commission requires to provide wireless 9-1-1 service.

(5) Enhanced wireless 9-1-1 service

The term “enhanced wireless 9-1-1 service” means any enhanced 9-1-1 service so designated by the Federal Communications Commission in the proceeding entitled “Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 9-1-1 Emergency Calling Systems” (CC Docket No. 94-102; RM-8143), or any successor proceeding.

(6) Wireless 9-1-1 service

The term “wireless 9-1-1 service” means any 9-1-1 service provided by a wireless carrier, including enhanced wireless 9-1-1 service.

(7) Emergency dispatch providers

The term “emergency dispatch providers” shall include governmental and nongovernmental providers of emergency dispatch services.

(Pub. L. 106-81, §6, Oct. 26, 1999, 113 Stat. 1289.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106-81, Oct. 26, 1999, 113 Stat. 1286, known as the Wireless Communications and Public Safety Act of 1999, which enacted sections 615 to 615b of this title, amended sections 222 and 251 of this title, and enacted provisions set out as notes under sections 609 and 615 of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendments note set out under section 609 of this title and Tables.

CODIFICATION

Section was enacted as part of the Wireless Communications and Public Safety Act of 1999, and not as part

of the Communications Act of 1934 which comprises this chapter.

CHAPTER 6—COMMUNICATIONS SATELLITE SYSTEM

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 902 of this title; title 26 sections 168, 883.

SUBCHAPTER I—GENERAL PROVISIONS

§ 701. Congressional declaration of policy and purpose

(a) Policy

The Congress declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries,

and which will contribute to world peace and understanding.

(b) Availability of telecommunication services

The new and expanded telecommunication services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, toward efficient and economical use of the electromagnetic frequency spectrum, and toward the reflection of the benefits of this new technology in both quality of services and charges for such services.

(c) Private enterprise; access; competition

In order to facilitate this development and to provide for the widest possible participation by private enterprise, United States participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation. It is the intent of Congress that all authorized users shall have non-discriminatory access to the system; that maximum competition be maintained in the provision of equipment and services utilized by the system; that the corporation created under this chapter be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public; and that the activities of the corporation created under this chapter and of the persons or companies participating in the ownership of the corporation shall be consistent with the Federal antitrust laws.

(d) Domestic use; additional systems

It is not the intent of Congress by this chapter to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this chapter nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest.

(Pub. L. 87-624, title I, §102, Aug. 31, 1962, 76 Stat. 419.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

REFERENCES IN TEXT

The Federal antitrust laws, referred to in subsec. (c), are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-180, §1, Mar. 17, 2000, 114 Stat. 48, provided that: "This Act [enacting subchapter VI of this chapter] may be cited as the 'Open-market Reorganization for the Betterment of International Telecommunications Act' or the 'ORBIT Act'."

SHORT TITLE

Section 101 of Pub. L. 87-624 provided that: "This Act [enacting this chapter] may be cited as the 'Communications Satellite Act of 1962'."

Pub. L. 87-624, title V, § 501, as added by Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2392, provided that: "This title [enacting subchapter V of this chapter] may be cited as the 'International Maritime Satellite Telecommunications Act'."

STYLISTIC CONSISTENCY

Pub. L. 103-414, title III, § 303(f), Oct. 25, 1994, 108 Stat. 4296, provided that: "The Communications Act of 1934 [47 U.S.C. 151 et seq.] and the Communications Satellite Act of 1962 [47 U.S.C. 701 et seq.] are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section [108 Stat. 4294]."

INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION

Pub. L. 99-93, title I, § 146, Aug. 16, 1985, 99 Stat. 425, provided that:

"(a) POLICY.—The Congress declares that it is the policy of the United States—

"(1) as a party to the International Telecommunications Satellite Organization (hereafter in this section referred to as 'Intelsat'), to foster and support the global commercial communications satellite system owned and operated by Intelsat;

"(2) to make available to consumers a variety of communications satellite services utilizing the space segment facilities of Intelsat and any additional such facilities which are found to be in the national interest and which—

"(A) are technically compatible with the use of the radio frequency spectrum and orbital space by the existing or planned Intelsat space segment, and

"(B) avoid significant economic harm to the global system of Intelsat; and

"(3) to authorize use and operation of any additional space segment facilities only if the obligations of the United States under article XIV(d) of the Intelsat Agreement have been met.

"(b) PRECONDITIONS FOR INTELSTAT CONSULTATION.—Before consulting with Intelsat for purposes of coordination of any separate international telecommunications satellite system under article XIV(d) of the Intelsat Agreement, the Secretary of State shall—

"(1) in coordination with the Secretary of Commerce, ensure that any proposed separate international satellite telecommunications system comply with the Executive Branch conditions established pursuant to the Presidential Determination No. 85-2 [49 F.R. 46987]; and

"(2) ensure that one or more foreign authorities have authorized the use of such system consistent with such conditions.

"(c) AMENDMENT OF INTELSTAT AGREEMENT.—(1) The Secretary of State shall consult with the United States signatory to Intelsat and the Secretary of Commerce regarding the appropriate scope and character of a modification to article V(d) of the Intelsat Agreement which would permit Intelsat to establish cost-based rates for individual traffic routes, as exceptional circumstances warrant, paying particular attention to the need for avoiding significant economic harm to the global system of Intelsat as well as United States national and foreign policy interests.

"(2)(A) To ensure that rates established by Intelsat for such routes are cost-based, the Secretary of State, in consultation with the Secretary of Commerce and the Chairman of the Federal Communications Commission, shall instruct the United States signatory to Intelsat to ensure that sufficient documentation, including documentation regarding revenues and costs, is provided by Intelsat so as to verify that such rates are in fact cost-based.

"(B) To the maximum extent possible, such documentation [documentation] will be made available to interested parties on a timely basis.

"(3) Pursuant to the consultation under paragraph (1) and taking the steps prescribed in paragraph (2) to pro-

vide documentation, the United States shall support an appropriate modification to article V(d) of the Intelsat Agreement to accomplish the purpose described in paragraph (1).

"(d) CONGRESSIONAL CONSULTATION.—In the event that, after United States consultation with Intelsat for the purposes of coordination under article XIV(d) of the Intelsat Agreement for the establishment of a separate international telecommunications satellite system, the Assembly of Parties of Intelsat fails to recommend such a separate system, and the President determines to pursue the establishment of a separate system notwithstanding the Assembly's failure to approve such system, the Secretary of State, after consultation with the Secretary of Commerce, shall submit to the Congress a detailed report which shall set forth—

"(1) the foreign policy reasons for the President's determination, and

"(2) a plan for minimizing any negative effects of the President's action on Intelsat and on United States foreign policy interests.

"(e) NOTIFICATION TO FEDERAL COMMUNICATIONS COMMISSION.—In the event the Secretary of State submits a report under subsection (d), the Secretary, 60 calendar days after the receipt by the Congress of such report, shall notify the Federal Communications Commission as to whether the United States obligations under article XIV(d) of the Intelsat Agreement have been met.

"(f) IMPLEMENTATION.—In implementing the provisions of this section, the Secretary of State shall act in accordance with Executive order 12046 [set out under section 305 of this title].

"(g) DEFINITION.—For the purposes of this section, the term 'separate international telecommunications satellite system' or 'separate system' means a system of one or more telecommunications satellites separate from the Intelsat space segment which is established to provide international telecommunications services between points within the United States and points outside the United States, except that such term shall not include any satellite or system of satellites established—

"(1) primarily for domestic telecommunications purposes and which incidentally provides services on an ancillary basis to points outside the jurisdiction of the United States but within the western hemisphere, or

"(2) solely for unique governmental purposes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 743, 765d of this title.

§ 702. Definitions

As used in this chapter, and unless the context otherwise requires—

(1) the term "communications satellite system" refers to a system of communications satellites in space whose purpose is to relay telecommunication information between satellite terminal stations, together with such associated equipment and facilities for tracking, guidance, control, and command functions as are not part of the generalized launching, tracking, control, and command facilities for all space purposes;

(2) the term "satellite terminal station" refers to a complex of communication equipment located on the earth's surface, operationally connected with one or more terrestrial communication systems, and capable of transmitting telecommunications to or receiving telecommunications from a communications satellite system.

(3) the term "communications satellite" means an earth satellite which is inten-

tionally used to relay telecommunication information;

(4) the term “associated equipment and facilities” refers to facilities other than satellite terminal stations and communications satellites, to be constructed and operated for the primary purpose of a communications satellite system, whether for administration and management, for research and development, or for direct support of space operations;

(5) the term “research and development” refers to the conception, design, and first creation of experimental or prototype operational devices for the operation of a communications satellite system, including the assembly of separate components into a working whole, as distinguished from the term “production,” which relates to the construction of such devices to fixed specifications compatible with repetitive duplication for operational applications; and

(6) the term “telecommunication” means any transmission, emission or reception of signs, signals, writings, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

(7) the term “communications common carrier” has the same meaning as the term “common carrier” has when used in the Communications Act of 1934, as amended [47 U.S.C. 151 et seq.], and in addition includes, but only for purposes of sections 733 and 734¹ of this title, any individual, partnership, association, joint-stock company, trust, corporation, or other entity which owns or controls, directly or indirectly, or is under direct or indirect common control with, any such carrier; and the term “authorized carrier”, except as otherwise provided for purposes of section 734¹ of this title by section 734(b)(1)¹ of this title, means a communications common carrier which has been authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites;

(8) the term “corporation” means the corporation authorized by subchapter III of this chapter.

(9) the term “Administration” means the National Aeronautics and Space Administration; and

(10) the term “Commission” means the Federal Communications Commission.

(Pub. L. 87-624, title I, §103, Aug. 31, 1962, 76 Stat. 419.)

TERMINATION OF PARAGRAPH (7)

Paragraph (7) to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

REFERENCES IN TEXT

The Communications Act of 1934, as amended, referred to in par. (7), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete clas-

¹ See References in Text note below.

sification of this Act to the Code, see section 609 of this title and Tables.

Sections 733 and 734 of this title, referred to in par. (7), were omitted from the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title; title 26 section 168.

SUBCHAPTER II—FEDERAL COORDINATION, PLANNING, AND REGULATION

§ 721. Implementation of policy

In order to achieve the objectives and to carry out the purposes of this chapter—

(a) Executive functions; review; agency coordination; supervision of foreign relationships; compatibility with domestic and foreign facilities

the President shall—

(1) omitted;

(2) provide for continuous review of all phases of the development and operation of such a system, including the activities of a communications satellite corporation authorized under subchapter III of this chapter;

(3) coordinate the activities of governmental agencies with responsibilities in the field of telecommunication, so as to insure that there is full and effective compliance at all times with the policies set forth in this chapter;

(4) exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;

(5), (6) omitted;

(7) so exercise his authority as to help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad.

(b) Omitted

(c) Commission functions; discrimination; just and reasonable charges, classifications, practices, regulations and other terms and conditions; allocation of facilities; technical approval; construction and operation authorizations; rules and regulations

the Federal Communications Commission, in its administration of the provisions of the Communications Act of 1934, as amended [47 U.S.C. 151 et seq.], and as supplemented by this chapter, shall—

(1) omitted;

(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system and satellite terminal stations under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which available facilities of the system and stations are allocated among such users thereof;

(3) to (5) omitted;

(6) approve technical characteristics of the operational communications satellite system to be employed by the corporation and of the satellite terminal stations; and

(7) grant appropriate authorizations for the construction and operation of each satellite terminal station, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity. In determining the public interest, convenience, and necessity the Commission shall authorize the construction and operation of such stations by communications common carriers or the corporation, without preference to either;

(8) to (10) omitted;

(11) make rules and regulations to carry out the provisions of this chapter.

(Pub. L. 87-624, title II, §201, Aug. 31, 1962, 76 Stat. 421; Pub. L. 103-414, title III, §304(b)(1), Oct. 25, 1994, 108 Stat. 4297.)

TERMINATION OF SUBSECTIONS (a)(2) TO (4), (7)
AND (c)(2), (6), (7)

Subsections (a)(2) to (4), (7) and (c)(2), (6), (7) of this section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

REFERENCES IN TEXT

The Communications Act of 1934, as amended, referred to in subsec. (c), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Subsecs. (a)(1), (5), (6), (b), and (c)(1), (3) to (5), (8) to (10) of this section ceased to be effective Mar. 17, 2000, pursuant to section 765d(1) of this title. Prior to being omitted, subsec. (a)(1), (5) and (6) directed the President to aid in a national program to establish and operate a commercial communications satellite system, to insure arrangements were made for foreign participation in the establishment and use of the system, and to insure availability and utilization of the system for general governmental purposes, subsec. (b) directed the National Aeronautics and Space Administration to give technical advice to the Commission and to cooperate with, assist, and provide services to the corporation, and subsec. (c)(1), (3) to (5), (8) to (10) directed the Federal Communications Commission to insure effective competition in procurement of services, to require establishment of communication to a particular foreign point when advised by the Secretary of State, to insure technical compatibility of the system with satellite terminal stations, to insure system economies are reflected in rates, to authorize the corporation to issue stock, borrow moneys, and assume securities obligations, to insure that substantial additions to the system or stations are made only when necessary, and to require necessary additions to be made with respect to the system or stations.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-414 struck out “as expeditiously as possible,” after “establishment and operation.”

EXECUTIVE ORDER No. 11191

Ex. Ord. No. 11191, Jan. 4, 1965, 30 F.R. 29, as amended by Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, which

related to the administration of the Communications Satellite Act of 1962 [this chapter], was revoked by Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, set out as a note under section 305 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 765d, 902 of this title.

SUBCHAPTER III—COMMUNICATIONS
SATELLITE CORPORATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 332, 702, 721, 769, 901 of this title.

§ 731. Creation of corporation

There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

(Pub. L. 87-624, title III, §301, as added Pub. L. 103-414, title III, §304(b)(2), Oct. 25, 1994, 108 Stat. 4297.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

PRIOR PROVISIONS

A prior section 731, Pub. L. 87-624, title III, §301, Aug. 31, 1962, 76 Stat. 423, authorized creation of a for-profit communications satellite corporation not to be a Government agency, subject to this chapter and the District of Columbia Business Corporation Act, prior to repeal by Pub. L. 103-414, §304(b)(2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§ 732. Applicable laws

The corporation shall be subject to the provisions of this chapter and, to the extent consistent with this chapter, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this chapter at any time is expressly reserved.

(Pub. L. 87-624, title III, §302, as added Pub. L. 103-414, title III, §304(b)(2), Oct. 25, 1994, 108 Stat. 4297.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in text, is act June 8, 1954, ch. 269, 68 Stat. 179, as amended, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 732, Pub. L. 87-624, title III, §302, Aug. 31, 1962, 76 Stat. 423, related to process of organization of the communications satellite corporation, prior to repeal by Pub. L. 103-414, §304(b)(2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§§ 733, 734. Omitted

CODIFICATION

Sections ceased to be effective Mar. 17, 2000, pursuant to section 765d(1) of this title.

Section 733, Pub. L. 87-624, title III, § 303, Aug. 31, 1962, 76 Stat. 423; Pub. L. 91-3, § 1, Mar. 12, 1969, 83 Stat. 4; Pub. L. 103-414, title III, § 303(b)(1), Oct. 25, 1994, 108 Stat. 4296, related to the board of directors and officers of the corporation.

Section 734, Pub. L. 87-624, title III, § 304, Aug. 31, 1962, 76 Stat. 424; Pub. L. 97-410, § 5, Jan. 3, 1983, 96 Stat. 2045; Pub. L. 103-414, title III, §§ 303(b)(2), (3), 304(b)(3), Oct. 25, 1994, 108 Stat. 4296, 4297, related to financing of the corporation.

§ 735. Omitted

CODIFICATION

Section, Pub. L. 87-624, title III, § 305, Aug. 31, 1962, 76 Stat. 425, which related to powers of the corporation, ceased to be effective pursuant to section 765d(2) of this title on July 18, 2001.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 332 of this title.

§ 741. Common carrier status of corporation; laws applicable to corporation; common carrier activity; conflict of laws

The corporation shall be deemed to be a common carrier within the meaning of section 3(h)¹ of the Communications Act of 1934, as amended, and as such shall be fully subject to the provisions of title II [47 U.S.C. 201 et seq.] and title III [47 U.S.C. 301 et seq.] of that Act. The provision of satellite terminal station facilities by one communication common carrier to one or more other communications common carriers shall be deemed to be a common carrier activity fully subject to the Communications Act [47 U.S.C. 151 et seq.]. Whenever the application of the provisions of this chapter shall be inconsistent with the application of the provisions of the Communications Act, the provisions of this chapter shall govern.

(Pub. L. 87-624, title IV, § 401, Aug. 31, 1962, 76 Stat. 426.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

REFERENCES IN TEXT

Section 3 of the Communications Act of 1934 [47 U.S.C. 153], referred to in text, was subsequently amended, and, as so amended, no longer contains a subsec. (h) defining “common carrier”. However, such term is defined elsewhere in that section.

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1964, as amended,

¹ See References in Text note below.

which is classified principally to chapter 5 (§151 et seq.) of this title. Titles II and III of the Communications Act of 1934 are classified generally to subchapters II (§201 et seq.) and III (§301 et seq.), respectively, of chapter 5 of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§ 742. Foreign business negotiations of corporation; notice to Department of State; advice and assistance from Department of State

Whenever the corporation shall enter into business negotiations with respect to facilities, operations, or services authorized by this chapter with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations. Throughout such negotiations the corporation shall keep the Department of State informed with respect to such considerations. The corporation may request the Department of State to assist in the negotiations, and that Department shall render such assistance as may be appropriate.

(Pub. L. 87-624, title IV, § 402, Aug. 31, 1962, 76 Stat. 426.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§ 743. Sanctions**(a) Petition of Attorney General for equitable relief; venue**

If the corporation created pursuant to this chapter shall engage in or adhere to any action, practices, or policies inconsistent with the policy and purposes declared in section 701 of this title, or if the corporation or any other person shall violate any provision of this chapter, or shall obstruct or interfere with any activities authorized by this chapter, or shall refuse, fail, or neglect to discharge his duties and responsibilities under this chapter, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Punishment, liability or sanction under other provisions

Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this chapter.

(c) Duty of compliance with provisions of chapter and rules and regulations

It shall be the duty of the corporation and all communications common carriers to comply, insofar as applicable, with all provisions of this chapter and all rules and regulations promulgated thereunder.

(Pub. L. 87-624, title IV, § 403, Aug. 31, 1962, 76 Stat. 426.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§ 744. Reports to Congress

The corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this chapter.

(Pub. L. 87-624, title IV, § 404, Aug. 31, 1962, 76 Stat. 426; Pub. L. 103-414, title III, § 304(b)(4), Oct. 25, 1994, 108 Stat. 4297; Pub. L. 104-66, title II, § 2051(a), Dec. 21, 1995, 109 Stat. 729.)

TERMINATION OF SECTION

Section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title, see section 765d(4) of this title.

AMENDMENTS

1995—Subsec. (c). Pub. L. 104-66, which directed that this section be amended by striking out subsec. (c), could not be executed, because of a prior amendment by Pub. L. 103-414. See 1994 Amendment note below.

1994—Pub. L. 103-414 redesignated subsec. (b) as entire section and struck out subsecs. (a) and (c) which read as follows:

“(a) The President shall transmit to the Congress in January of each year a report which shall include a comprehensive description of the activities and accomplishments during the preceding calendar year under the national program referred to in section 721(a)(1) of this title, together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this chapter and any recommendations for additional legislative or other action which the President may consider necessary or desirable for the attainment of such objectives.

“(c) The Commission shall transmit to the Congress, annually and at such other times as it deems desirable, (i) a report of its activities and actions on anticompetitive practices as they apply to the communications satellite programs; (ii) an evaluation of such activities and actions taken by it within the scope of its authority with a view to recommending such additional legislation which the Commission may consider necessary in the public interest; and (iii) an evaluation of the capital structure of the corporation so as to assure the Congress that such structure is consistent with the most efficient and economical operation of the corporation.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 765d, 904 of this title.

SUBCHAPTER V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

§§ 751, 752. Omitted

CODIFICATION

Sections ceased to be effective Mar. 17, 2000, pursuant to section 765d(1) of this title.

Section 751, Pub. L. 87-624, title V, § 502, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2392; amended Pub. L. 103-414, title III, § 303(b)(4), Oct. 25, 1994, 108 Stat. 4296, related to congressional declaration of policy and purpose of this subchapter.

Section 752, Pub. L. 87-624, title V, § 503, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2392; amended Pub. L. 103-414, title III, §§ 303(b)(4), 304(b)(5), Oct. 25, 1994, 108 Stat. 4296, 4297, related to the corporation's status as the sole designated operating entity of the United States.

§ 753. Implementation of policy

(a) Administrative functions; agency coordination; spectrum and orbital space use; compatibility with domestic and foreign facilities

The Secretary of Commerce shall—

(1) coordinate the activities of Federal agencies with responsibilities in the field of telecommunications (other than the Commission), so as to ensure that there is full and effective compliance with the provisions of this subchapter;

(2) omitted;

(3) exercise his authority in a manner which seeks to obtain coordinated and efficient use of the electromagnetic spectrum and orbital space, and to ensure the technical compatibility of the space segment with existing communications facilities in the United States and in foreign countries; and

(4) omitted;

(b) Executive functions; supervision and instructions for foreign relationships and activities

The President shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and INMARSAT as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

(c) Omitted

(d) Commission regulatory instructions; conflicting and prevailing instructions of President

The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (b) of this section, the instructions issued by the President shall prevail.

(Pub. L. 87-624, title V, § 504, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2394.)

TERMINATION OF SUBSECTIONS (b) AND (d)

Subsections (b) and (d) of this section to cease to be effective on the effective date of a Commission order determining under section 761(b)(2) of this title that Inmarsat privatization is consistent with criteria in sections 763 and 763c of this title, see section 765d(3) of this title.

CODIFICATION

Subsecs. (a)(2), (4) and (c) of this section ceased to be effective Mar. 17, 2000, pursuant to section 765d(1) of this title. Subsec. (a)(2), (4) directed the Secretary of Commerce to ensure availability and utilization of the maritime satellite telecommunications services provided by INMARSAT for general governmental purposes and to determine the needs of users of the maritime satellite telecommunications system and to communicate that information to INMARSAT. Subsec. (c) assigned functions to the Commission.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 765d, 902 of this title.

§§ 754 to 756. Repealed. Pub. L. 103-414, title III, § 304(b)(5), Oct. 25, 1994, 108 Stat. 4298

Section 754, Pub. L. 87-624, title V, §505, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2395, related to study of structure and activities of corporation.

Section 755, Pub. L. 87-624, title V, §506, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2395, related to study of public maritime coast station services.

Section 756, Pub. L. 87-624, title V, §507, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2396, related to study of radio navigation systems.

§ 757. Definitions

For purposes of this subchapter—

(1) the term “person” includes an individual, partnership, association, joint stock company, trust, or corporation;

(2) the term “satellite earth terminal station” means a complex of communications equipment located on land, operationally interconnected with one or more terrestrial communications systems, and capable of transmitting telecommunications to, or receiving telecommunications from, the space segment;

(3) the term “space segment” means any satellite (or capacity on a satellite) maintained under the authority of INMARSAT, for the purpose of providing international maritime telecommunications services, and the tracking, telemetry, command, control, monitoring, and related facilities and equipment required to support the operation of such satellite; and

(4) the term “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(Pub. L. 87-624, title V, §505, formerly §508, as added Pub. L. 95-564, Nov. 1, 1978, 92 Stat. 2396; renumbered §505, Pub. L. 103-414, title III, §304(b)(6), Oct. 25, 1994, 108 Stat. 4298.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 87-624 was classified to section 754 of this title prior to repeal by Pub. L. 103-414, §304(b)(5).

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER VI—COMMUNICATIONS
COMPETITION AND PRIVATIZATION

PART A—ACTIONS TO ENSURE PRO-COMPETTIVE
PRIVATIZATION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 763, 763a, 763b, 763c of this title.

§ 761. 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 763 and 763b of this title, 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 763(5)(A) of this title, 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 763 and 763a of this title.

(2) Criteria for competition test

In making the determination required by paragraph (1), the Commission shall use the licensing criteria in sections 763, 763a, and 763c of this title, 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 equip-

ment 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 subchapter 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) of this section, 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.

(Pub. L. 87-624, title VI, §601, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 48.)

PURPOSE

Pub. L. 106-180, §2, Mar. 17, 2000, 114 Stat. 48, provided that: "It is the purpose of this Act [see Short Title of 2000 Amendment note set out under section 701 of this title] 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."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 765d of this title.

§ 761a. 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 subchapter, 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.

(Pub. L. 87-624, title VI, §602, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 50.)

PART B—FEDERAL COMMUNICATIONS COMMISSION
LICENSING CRITERIA: PRIVATIZATION CRITERIA

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 767 of this title.

§ 763. 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 763a through 763c of this title. In securing such privatizations, the following criteria shall be applied as licensing criteria for purposes of part A of this subchapter:

(1) Dates for privatization

Privatization shall be obtained in accordance with the criteria of this subchapter 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 entities 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 subchapter, 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 subchapter, 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, not later than December 31, 2002, except that the Commission may extend this deadline to not later than June 30, 2003.

(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 March 17, 2000, 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.

(Pub. L. 87-624, title VI, §621, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 51; amended Pub. L. 107-77, title VI, §628, Nov. 28, 2001, 115 Stat. 804.)

AMENDMENTS

2001—Par. (5)(A)(ii). Pub. L. 107-77 substituted “not later than December 31, 2002, except that the Commission may extend this deadline to not later than June 30, 2003” for “on or about October 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 to no later than December 31, 2001”.

IMMIGRATION STATUS OF ALIEN EMPLOYEES OF
INTELSAT AFTER PRIVATIZATION

Title III of Pub. L. 106-396, Oct. 30, 2000, 114 Stat. 1645, provided for maintenance of nonimmigrant and special immigrant status of alien employees of INTELSAT and their immediate family members after privatization, and for treatment of employment for purposes of obtaining immigrant status as a multinational executive or manager.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 763a, 763b, 763c, 765a, 765d of this title.

§ 763a. Specific criteria for INTELSAT

In securing the privatizations required by section 763 of this title, the following additional criteria with respect to INTELSAT privatization shall be applied as licensing criteria for purposes of part A of this subchapter:

(1)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.

(Pub. L. 87-624, title VI, §622, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 53.)

¹ So in original. No par. (2) has been enacted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 763, 765a, 765d of this title.

§ 763b. Specific criteria for INTELSAT separated entities

In securing the privatizations required by section 763 of this title, the following additional criteria with respect to any INTELSAT separated entity shall be applied as licensing criteria for purposes of part A of this subchapter:

(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 March 17, 2000, 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 subchapter.

(Pub. L. 87-624, title VI, §623, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 53.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 763 of this title.

§ 763c. Specific criteria for Inmarsat

In securing the privatizations required by section 763 of this title, the following additional criteria with respect to Inmarsat privatization shall be applied as licensing criteria for purposes of part A of this subchapter:

(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 subchapter.

(2) Interlocking directorates or employees

None of the officers, directors, or employees of Inmarsat or any successor entity or sepa-

rated 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.

(Pub. L. 87-624, title VI, §624, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 54.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 761, 763, 765a, 765d of this title.

§ 763d. Encouraging market access and privatization

(a) NTIA determination

(1) Determination required

Within 180 days after March 17, 2000, 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) of this section.

(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.

(Pub. L. 87-624, title VI, §625, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 54.)

PART C—DEREGULATION AND OTHER STATUTORY CHANGES

§ 765. Access to INTELSAT

(a) Access permitted

Beginning on March 17, 2000, 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 March 17, 2000, as "Level III".

(b) Rulemaking

Within 180 days after March 17, 2000, the Commission shall complete a rulemaking, with notice and opportunity for submission of comment by interested persons, 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 chapter and the Communications Act of 1934 [47 U.S.C. 151 et seq.]. 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.

(Pub. L. 87-624, title VI, §641, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 55.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (b), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 765a. 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 763, 763a, and 763c of this title.

(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 inter-governmental 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 lead to the liability.

(4) Provisions prospective

Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before March 17, 2000.

(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.

(Pub. L. 87-624, title VI, §642, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 55.)

§ 765b. Elimination of procurement preferences

Nothing in this subchapter or the Communications Act of 1934 [47 U.S.C. 151 et seq.] shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

(Pub. L. 87-624, title VI, §643, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 765c. 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.

(Pub. L. 87-624, title VI, §644, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

§ 765d. Termination of provisions of this chapter

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

(1) March 17, 2000: Paragraphs (1), (5) and (6) of section 721(a) of this title; section 721(b) of this title; paragraphs (1), (3) through (5), and (8) through (10) of section 721(c) of this title; section 733 of this title; section 734 of this title; section 751 of this title; section 752 of this title; paragraphs (2) and (4) of section 753(a) of this title; and section 753(c) of this title.

(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 735 of this title.

(3) On the effective date of a Commission order determining under section 761(b)(2) of this title that Inmarsat privatization is consistent with criteria in sections 763 and 763c of this title: Sections 753(b) and 753(d) of this title.

(4) On the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title: Section 701 of this title; section 702(7) of this title; paragraphs (2) through (4) and (7) of section 721(a) of this title; paragraphs (2), (6), and (7) of section 721(c) of this title; section 731 of this title; section 732 of this title; section 741 of this title; section 742 of this title; section 743 of this title; and section 744 of this title.

(Pub. L. 87-624, title VI, §645, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

§ 765e. 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 March 17, 2000, and not less than annually thereafter, on the progress made to achieve the objectives and carry out the purposes and provisions of this subchapter. Such reports shall be made available immediately to the public.

(b) Contents of reports

The reports submitted pursuant to subsection (a) of this section 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.

(Pub. L. 87-624, title VI, §646, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 57.)

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DELEGATION OF RESPONSIBILITY

Memorandum of President of the United States, Aug. 21, 2000, 65 F.R. 52289, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in me by section 646 of the ORBIT Act (Public Law 106-180) [probably means section 646 of Pub. L. 87-624, as added by Pub. L. 106-180, 47 U.S.C. 765e], relating to submission of annual reports to the appropriate congressional committees regarding the privatization of intergovernmental satellite organizations. The authority delegated by the memorandum may be further redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 765f. 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.

(Pub. L. 87-624, title VI, §647, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 57.)

§ 765g. 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.

(Pub. L. 87-624, title VI, §648, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 57.)

PART D—NEGOTIATIONS TO PURSUE PRIVATIZATION

§ 767. Methods to pursue privatization

The President shall secure the pro-competitive privatizations required by this subchapter in a manner that meets the criteria in part B of this subchapter.

(Pub. L. 87-624, title VI, §661, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 58.)

PART E—DEFINITIONS

§ 769. Definitions

(a) In general

As used in this subchapter:

(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 telecommunications 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 Telecommunication¹ 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 subchapter III of this chapter, or the successor in interest to such corporation.

(19) ICO

The term “ICO” means the company known, as of March 17, 2000, 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) of this section, terms used in this subchapter that are defined in section 153 of this title have the meanings provided in such section.

(Pub. L. 87-624, title VI, §681, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 58.)

CHAPTER 7—CAMPAIGN COMMUNICATIONS

§§ 801 to 805. Repealed. Pub. L. 93-443, title II, § 205(b), Oct. 15, 1974, 88 Stat. 1278

Section 801, Pub. L. 92-225, title I, §102, Feb. 7, 1972, 86 Stat. 3, related to definitions for purposes of this chapter.

Section 802, Pub. L. 92-225, title I, §103(b), Feb. 7, 1972, 86 Stat. 4, related to nonbroadcast media rates.

Section 803, Pub. L. 92-225, title I, §104(a), (b), Feb. 7, 1972, 86 Stat. 5, related to limitations of expenditures for use of communications media.

Section 804, Pub. L. 92-225, title I, §105, Feb. 7, 1972, 86 Stat. 7, related to regulations prescribed under this chapter.

¹ So in original. Probably should be “Telecommunications”.