

Stat. 32, which is classified principally to chapter 21 (§1901 et seq.) of Title 29, Labor. The term “individuals who are deaf-blind” is defined in section 206(2) of the Act, as amended by Pub. L. 102-569, which is classified to section 1905(2) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 29 and Tables.

#### AMENDMENTS

2010—Subsec. (a). Pub. L. 111-265, §2(5), inserted “low-income” after “accessible by”.

Pub. L. 111-265, §2(4), made technical amendment to reference in original act which appears in text as reference to “October 8, 2010”.

### § 621. Rulemaking on loud commercials required

#### (a) Rulemaking required

Within 1 year after December 15, 2010, the Federal Communications Commission shall prescribe pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.) a regulation that is limited to incorporating by reference and making mandatory (subject to any waivers the Commission may grant) the “Recommended Practice: Techniques for Establishing and Maintaining Audio Loudness for Digital Television” (A/85), and any successor thereto, approved by the Advanced Television Systems Committee, only insofar as such recommended practice concerns the transmission of commercial advertisements by a television broadcast station, cable operator, or other multichannel video programming distributor.

#### (b) Implementation

##### (1) Effective date

The Federal Communications Commission shall prescribe that the regulation adopted pursuant to subsection (a) shall become effective 1 year after the date of its adoption.

##### (2) Waiver

For any television broadcast station, cable operator, or other multichannel video programming distributor that demonstrates that obtaining the equipment to comply with the regulation adopted pursuant to subsection (a) would result in financial hardship, the Federal Communications Commission may grant a waiver of the effective date set forth in paragraph (1) for 1 year and may renew such waiver for 1 additional year.

##### (3) Waiver authority

Nothing in this section affects the Commission’s authority under section 1.3 of its rules (47 C.F.R. 1.3) to waive any rule required by this Act, or the application of any such rule, for good cause shown to a television broadcast station, cable operator, or other multichannel video programming distributor, or to a class of such stations, operators, or distributors.

#### (c) Compliance

Any broadcast television operator, cable operator, or other multichannel video programming distributor that installs, utilizes, and maintains in a commercially reasonable manner the equipment and associated software in compliance with the regulations issued by the Federal Communications Commission in accordance with subsection (a) shall be deemed to be in compliance with such regulations.

#### (d) Definitions

For purposes of this section—

(1) the term “television broadcast station” has the meaning given such term in section 325 of the Communications Act of 1934 (47 U.S.C. 325); and

(2) the terms “cable operator” and “multichannel video programming distributor” have the meanings given such terms in section 602 of Communications Act of 1934 (47 U.S.C. 522).

(Pub. L. 111-311, §2, Dec. 15, 2010, 124 Stat. 3294.)

#### REFERENCES IN TEXT

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

This Act, referred to in subsec. (b)(3), is Pub. L. 111-311, Dec. 15, 2010, 124 Stat. 3294, known as the Commercial Advertisement Loudness Mitigation Act or the CALM Act, which enacted this section and provisions set out as a note under section 609 of this title.

#### CODIFICATION

Section was enacted as part of the Commercial Advertisement Loudness Mitigation Act, or the CALM Act, and not as part of the Communications Act of 1934 which comprises this chapter.

### CHAPTER 6—COMMUNICATIONS SATELLITE SYSTEM

#### SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
701.	Omitted.
702.	Definitions.
703.	Satellite service report.

#### SUBCHAPTER II—FEDERAL COORDINATION, PLANNING, AND REGULATION

721.	Implementation of policy.
------	---------------------------

#### SUBCHAPTER III—COMMUNICATIONS SATELLITE CORPORATION

731 to 735.	Omitted.
-------------	----------

#### SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

741 to 744.	Omitted.
-------------	----------

#### SUBCHAPTER V—INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

751, 752.	Omitted.
753.	Implementation of policy.
754 to 756.	Repealed.
757.	Definitions.

#### SUBCHAPTER VI—COMMUNICATIONS COMPETITION AND PRIVATIZATION

##### PART A—ACTIONS TO ENSURE PRO-COMPETITIVE PRIVATIZATION

761.	Federal Communications Commission licensing.
761a.	Incentives; limitation on expansion pending privatization.

##### PART B—FEDERAL COMMUNICATIONS COMMISSION LICENSING CRITERIA: PRIVATIZATION CRITERIA

763.	General criteria to ensure a pro-competitive privatization of INTELSAT and Inmarsat.
763a.	Specific criteria for INTELSAT.
763b.	Repealed.
763c.	Space segment capacity of the GMDSS.
763d.	Encouraging market access and privatization.

##### PART C—DEREGULATION AND OTHER STATUTORY CHANGES

765.	Access to INTELSAT.
------	---------------------

Sec.	
765a.	Signatory role.
765b.	Elimination of procurement preferences.
765c.	ITU functions.
765d.	Termination of provisions of this chapter.
765e.	Reports to Congress.
765f.	Satellite auctions.
765g.	Exclusivity arrangements.

## PART D—NEGOTIATIONS TO PURSUE PRIVATIZATION

767.	Methods to pursue privatization.
------	----------------------------------

## PART E—DEFINITIONS

769.	Definitions.
------	--------------

## SUBCHAPTER I—GENERAL PROVISIONS

## § 701. Omitted

## CODIFICATION

Section, Pub. L. 87-624, title I, §102, Aug. 31, 1962, 76 Stat. 419, which related to Congressional declaration of policy and purpose, ceased to be effective Apr. 15, 2005, pursuant to section 765d(4) of this title.

## SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-39, §1, June 30, 2003, 117 Stat. 835, provided that: “This Act [amending section 763 of this title] may be cited as the ‘ORBIT Technical Corrections Act of 2003’.”

## 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

Pub. L. 87-624, title I, §101, Aug. 31, 1962, 76 Stat. 419, 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 INTELSAT 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 INTELSAT 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 provide 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.”

### § 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 intentionally 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) omitted;

(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.)

### CODIFICATION

Par. (7) of this section, which defined the term “communications common carrier”, ceased to be effective Apr. 15, 2005, pursuant to section 765d(4) of this title.

### § 703. Satellite service report

#### (a) Annual report

The Federal Communications Commission shall review competitive market conditions with respect to domestic and international satellite communications services and shall include in an annual report an analysis of those conditions. The Commission shall transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

#### (b) Content

The Commission shall include in the report—

(1) an identification of the number and market share of competitors in domestic and international satellite markets;

(2) an analysis of whether there is effective competition in the market for domestic and international satellite services; and

(3) a list of any foreign nations in which legal or regulatory practices restrict access to the market for satellite services in such nation in a manner that undermines competition or favors a particular competitor or set of competitors.

(Pub. L. 109–34, §4, July 12, 2005, 119 Stat. 377.)

### CODIFICATION

Section was not enacted as part of the Communications Satellite Act of 1962 which comprises this chapter.

## 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) the President shall—

(1) to (7) omitted.

(b) omitted.

(c) 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) 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.)

### 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.

Subsecs. (a)(2) to (4), (7) and (c)(2), (6), (7) of this section ceased to be effective Apr. 15, 2005, pursuant to section 765d(4) of this title. Prior to being omitted, subsec. (a)(2) to (4) and (7) directed the President to review the development and operation of the communications satellite system, to coordinate activities of governmental agencies with telecommunication responsibilities, to supervise foreign relationships of the corporation, and to coordinate efficient use of the electromagnetic spectrum and subsec. (c)(2), (6), and (7) directed the Federal Communications Commission to ensure nondiscriminatory use of the communications satellite system under just and reasonable charges, to approve technical characteristics of the operational communications satellite system, and to grant appropriate authorizations for the construction and operation of each satellite terminal station.

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.

SUBCHAPTER III—COMMUNICATIONS SATELLITE CORPORATION

§§ 731 to 735. Omitted

CODIFICATION

Sections 731 and 732 ceased to be effective Apr. 15, 2005, pursuant to section 765d(4) of this title.

Section 731, Pub. L. 87-624, title III, §301, as added Pub. L. 103-414, title III, §304(b)(2), Oct. 25, 1994, 108 Stat. 4297, related to the creation of a communications satellite corporation.

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 732, Pub. L. 87-624, title III, §302, as added Pub. L. 103-414, title III, §304(b)(2), Oct. 25, 1994, 108 Stat. 4297, related to laws applicable to the corporation.

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).

Sections 733 and 734 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.

Section 735, Pub. L. 87-624, title III, §305, Aug. 31, 1962, 76 Stat. 425, which related to powers of the corporation, ceased to be effective July 18, 2001, pursuant to section 765d(2) of this title.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§§ 741 to 744. Omitted

CODIFICATION

Sections 741 to 744 ceased to be effective Apr. 15, 2005, pursuant to section 765d(4) of this title.

Section 741, Pub. L. 87-624, title IV, §401, Aug. 31, 1962, 76 Stat. 426, related to the common carrier status of and laws applicable to the corporation.

Section 742, Pub. L. 87-624, title IV, §402, Aug. 31, 1962, 76 Stat. 426, related to foreign business negotiations of the corporation and required notice to the Department of State.

Section 743, Pub. L. 87-624, title IV, §403, Aug. 31, 1962, 76 Stat. 426, related to sanctions imposed upon the corporation for violations of provisions of this chapter.

Section 744, 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, related to annual reports to the President and Congress by the corporation.

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) 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 commu-

nications facilities in the United States and in foreign countries; and

(4) omitted.

(b) to (d) Omitted.

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

#### 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.

Subsecs. (b) and (d) of this section ceased to be effective June 14, 2005, pursuant to section 765d(3) of this title. Subsec. (b) directed the President to supervise and issue instructions to the communications satellite corporation regarding activities with foreign governments, international entities, and INMARSAT. Subsec. (d) authorized the Federal Communications Commission to issue instructions to the corporation with respect to regulatory matters within the Commission's jurisdiction.

#### §§ 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-COMPETITIVE PRIVATIZATION

#### § 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<sup>1</sup> 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

<sup>1</sup> See References in Text note below.

(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<sup>1</sup> 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 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 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.)

REFERENCES IN TEXT

Section 763b of this title, referred to in subsec. (a)(2), was repealed by Pub. L. 109-34, §2, July 12, 2005, 119 Stat. 377.

Section 763c of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 109-34, §3, July 12, 2005, 119 Stat. 377, and no longer relates to specific criteria for Inmarsat privatization.

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."

**§ 761a. Incentives; limitation on expansion pending privatization**

**(a) Limitation**

Until INTELSAT, Inmarsat, and their successor or separate entities are privatized in accord-

ance 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

**§ 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<sup>1</sup> 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 June 30, 2005, 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, 2005; and

(ii) shall be conducted, for the successor entities of Inmarsat, not later than June 30, 2005, except that the Commission may extend this deadline to not later than December 31, 2004.

(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 are officers or managers of any signatories or former signatories; and
- (iii) have no directors, officers, or managers who hold such positions in any intergovernmental organization.

(E) Any transactions or other relationships between or among any successor en-

<sup>1</sup> See References in Text note below.

tity, separated entity, INTELSAT, or Inmarsat shall be conducted on an arm's length basis.

(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if—

(i) the successor entity certifies to the Commission that—

(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

(G) For purposes of subparagraph (F), the term "substantial dilution" means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.

#### (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; Pub. L. 107-233, §1, Oct. 1, 2002, 116 Stat. 1480; Pub. L. 108-39, §2, June 30, 2003, 117 Stat. 835; Pub. L. 108-228, §1, May 18, 2004, 118 Stat. 644; Pub. L. 108-371, §1, Oct. 25, 2004, 118 Stat. 1752; Pub. L. 109-34, §1, July 12, 2005, 119 Stat. 377.)

#### REFERENCES IN TEXT

Section 763b of this title, referred to in text, was repealed by Pub. L. 109-34, §2, July 12, 2005, 119 Stat. 377.

Section 763c of this title, referred to in text, was amended generally by Pub. L. 109-34, §3, July 12, 2005, 119 Stat. 377, and no longer relates to specific criteria for Inmarsat privatization.

#### AMENDMENTS

2005—Par. (5)(D)(ii). Pub. L. 109-34, §1(1), (2), struck out subcl. (I) designation after "managers who" and substituted "signatories; and" for "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;"

Par. (5)(D)(iii). Pub. L. 109-34, §1(3), substituted "organization." for "organization; and".

Par. (5)(D)(iv). Pub. L. 109-34, §1(4), struck out cl. (iv) which read as follows: "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."

2004—Par. (5)(A)(i). Pub. L. 108-228 substituted "June 30, 2005" for "December 31, 2003" and "December 31, 2005" for "June 30, 2004".

Par. (5)(A)(ii). Pub. L. 108-371, §1(1), substituted "June 30, 2005" for "June 30, 2004".

Par. (5)(F), (G). Pub. L. 108-371, §1(2), added subpars. (F) and (G).

2003—Par. (5)(A)(ii). Pub. L. 108-39 substituted "June 30, 2004" for "December 31, 2002" and "December 31, 2004" for "June 30, 2003".

2002—Par. (5)(A)(i). Pub. L. 107-233 substituted "December 31, 2003," for "October 1, 2001," and "June 30, 2004;" for "December 31, 2002;"

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.

#### § 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)<sup>1</sup> 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.)

<sup>1</sup> So in original. No par. (2) has been enacted.

**§ 763b. Repealed. Pub. L. 109-34, § 2, July 12, 2005, 119 Stat. 377**

Section, Pub. L. 87-624, title VI, § 623, as added Pub. L. 106-180, § 3, Mar. 17, 2000, 114 Stat. 53, related to specific criteria for INTELSAT separated entities.

**§ 763c. Space segment capacity of the GMDSS**

The United States shall preserve the space segment capacity of the GMDSS. This section is not intended to alter the status that the GMDSS would otherwise have under United States laws and regulations of the International Telecommunication Union with respect to spectrum, orbital locations, or other operational parameters, or to be a barrier to competition for the provision of GMDSS services.

(Pub. L. 87-624, title VI, § 624, as added Pub. L. 106-180, § 3, Mar. 17, 2000, 114 Stat. 54; amended Pub. L. 109-34, § 3, July 12, 2005, 119 Stat. 377.)

AMENDMENTS

2005—Pub. L. 109-34 amended section catchline and text generally, substituting provisions relating to space segment capacity of the GMDSS for provisions relating to specific criteria for Inmarsat privatization.

**§ 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<sup>1</sup> 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.)

REFERENCES IN TEXT

Section 763c of this title, referred to in subsec. (a)(2), was amended generally by Pub. L. 109-34, §3, July 12, 2005, 119 Stat. 377, and no longer relates to specific criteria for Inmarsat privatization.

**§ 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.)

<sup>1</sup> See References in Text note below.

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<sup>1</sup> 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.)

REFERENCES IN TEXT

The transfer of assets and receipt by signatories of ownership shares in the successor entity of INTELSAT, referred to in par. (2), occurred on July 18, 2001. See *FCC Report to Congress as Required by the ORBIT Act*, FCC 02-170, 17 FCC Red. 11458 (released June 14, 2002).

<sup>1</sup> See References in Text note below.

The effective date of the Commission order relating to Inmarsat privatization, referred to in par. (3), is June 14, 2005. See *In the Matter of Inmarsat Group Holdings Limited Petition for Declaratory Ruling Pursuant to Section 621(5)(F) of the ORBIT Act*, Memorandum Opinion and Order, IB Docket 04-439, FCC 05-126 (released June 14, 2005).

Section 763c of this title, referred to in par. (3), was amended generally by Pub. L. 109-34, § 3, July 12, 2005, 119 Stat. 377, and no longer relates to specific criteria for Inmarsat privatization.

The effective date of the Commission order relating to INTELSAT privatization, referred to in par. (4), is Apr. 15, 2005. See *In the Matter of Intelsat, Ltd. Petition for Declaratory Ruling that Intelsat, Ltd. Complies With Section 621(5)(F) of the ORBIT Act*, Memorandum Opinion and Order, IB Docket 05-18, FCC 05-86 (released April 15, 2005).

### § 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.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### 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 sat-

ellite 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 Orga-

nization 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 Telecommunication<sup>1</sup> 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

<sup>1</sup> So in original. Probably should be “Telecommunications”.

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.)

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**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.

Section 805, Pub. L. 92–225, title I, § 106, Feb. 7, 1972, 86 Stat. 8, related to penalties imposed under this chapter.

EFFECTIVE DATE OF REPEAL

Sections 801 to 805 repealed effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as an Effective Date of 1974 Amendment note under section 431 of Title 2, The Congress.

**CHAPTER 8—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

**SUBCHAPTER I—ORGANIZATION AND FUNCTIONS**

Sec.

- 901. Definitions; findings; policy.
- 902. Establishment; assigned functions.
- 903. Spectrum management activities.
- 904. General administrative provisions.
- 905. Omitted.

**SUBCHAPTER II—TRANSFER OF AUCTIONABLE FREQUENCIES**

- 921. Definitions.
- 922. National spectrum allocation planning.
- 923. Identification of reallocable frequencies.
- 924. Withdrawal or limitation of assignment to Federal Government stations.
- 925. Distribution of frequencies by Commission.
- 926. Authority to recover reassigned frequencies.
- 927. Existing allocation and transfer authority retained.
- 928. Spectrum Relocation Fund.

**SUBCHAPTER III—MISCELLANEOUS**

- 941. Child-friendly second-level Internet domain.
- 942. Omitted.

**SUBCHAPTER I—ORGANIZATION AND FUNCTIONS**

**§ 901. Definitions; findings; policy**

**(a) Definitions**

In this chapter, the following definitions apply:

- (1) The term “NTIA” means the National Telecommunications and Information Administration.
- (2) The term “Assistant Secretary” means the Assistant Secretary for Communications and Information.
- (3) The term “Secretary” means the Secretary of Commerce.
- (4) The term “Commission” means the Federal Communications Commission.
- (5) The term “Corporation” means the Communications Satellite Corporation authorized in title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.).

**(b) Findings**

The Congress finds the following:

- (1) Telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States.
- (2) Rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.
- (3) Telecommunications and information policies and recommendations advancing the