Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of COMSAT General Corporation, Lockheed Martin Global Telecommunications, LLC, and COMSAT New Services, Inc., Assignors, and Intelsat LLC and Intelsat MTC LLC, Assignees, Petition for Declaratory Ruling under Section 310 of the Communications Act of 1934, as Amended, and Joint Application for Consent to Assignments of Title II and Title III Authorizations	IB Docket No. 04-235 File Nos. ISP-PDR-20040528-00005 SES-ASG-20040528-00744 SES-ASG-20040528-00750 SES-ASG-20040528-00751 SES-ASG-20040528-00109 ITC-ASG-20040528-00235 0001743676

JOINT PETITION TO DEFER

The United States Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and on behalf of the United States Department of Homeland Security ("DHS") (collectively, the "Executive Agencies"), and with the concurrence of Intelsat LLC and Intelsat MTC LLC (collectively, "Intelsat "), and COMSAT General Corporation, Lockheed Martin Global Telecommunications, LLC, and COMSAT New Services, Inc. (collectively, "COMSAT"), respectfully request that the Federal Communications Commission ("FCC" or "Commission") defer grant of the above-captioned Application until the parties notify the Commission that they have addressed potential national security, law enforcement, and public

safety issues. The parties expect to provide such notification to the Commission within the next few weeks.

In the above-captioned proceeding, Intelsat and COMSAT applied pursuant to Section 310(d), 214, and 308 of the Communications Act of 1934, as amended, for Commission consent to COMSAT's assignment to Intelsat LLC of certain Title III radio licenses and other assets, and COMSAT's assignment to Intelsat MTC LLC of certain Title III radio licenses, a Title II common carrier license, and other assets. Because Intelsat's ultimate parent company, Intelsat, Ltd., is organized under the laws of Bermuda, the companies also requested a declaratory ruling that the transaction is consistent with the public interest standard of Section 310(b)(4) of the Act.

The Executive Agencies are also currently evaluating whether the proposed assignment of COMSAT's licenses and authorizations to Intelsat could impair the ability of authorized governmental agencies in the United States to satisfy their obligations to preserve national security, enforce the laws, and protect public safety. The parties therefore request that, until the national security, law enforcement, and public safety issues are adequately addressed, the Commission defer the formal issuance of an Order concerning Intelsat and COMSAT's Application for Consent to Assignments and Petition for a Declaratory Ruling.

Because the integrity of U.S. telecommunications services is critical to the ability of our government to preserve the national security, enforce the laws, and maintain the safety of the public, the Executive Agencies have previously availed themselves of the opportunity under Section 310 of the Act, and implementating regulations, to comment regarding the public interest concerns raised by particular transactions. There is, therefore, well-established precedent for delaying approval of an application to assign FCC licenses until the Executive Agencies have reviewed the transaction for safety and security concerns. In the *Foreign Participation Order*,

the Commission said that, in reviewing license applications from foreign carriers under Section 310(b)(4) of the Communications Act, it would: (1) continue to apply the public interest test, and (2) "continue to find national security, law enforcement, foreign policy and trade policy concerns relevant to our decision to grant or deny Section 214 and 310(b)(4) applications from applicants from WTO member[s]."[1]

> [W]e realize that foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch…
>
> We thus will continue to accord deference to the expertise of the Executive Branch agencies in identifying and interpreting issues of concern related to national security, law enforcement, and foreign policy that are relevant to an application pending before us.[2]

Therefore, granting this Petition would be consistent with the Commission's previous deference to the Executive Agencies where law enforcement, safety and security concerns are present.

The parties are working together to ensure that the foreign investment in U.S. satellite licenses and authorizations proposed here will not impair the ability of federal, state and local governments to effectively: (1) conduct secure and lawfully-authorized electronic surveillance of domestic U.S. calls or calls that originate or terminate in the United States; (2) prevent and detect foreign-based or other illegal electronic surveillance within the United States, which might jeopardize the security of the United States or privacy of U.S. telecommunications; and (3) satisfy U.S. National Security Emergency Preparedness and U.S. infrastructure protection requirements.

---

1 *In the Matter of Rules and Policies of Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23,891, ¶ 61 (Nov. 1997).

2 *Id.* at ¶¶ 62-63

Accordingly, the parties hereby request jointly that the Commission, without delaying its present consideration of the Application in any other respect, defer the formal issuance of an Order on Intelsat and COMSAT's Application for Consent to Assignments and Petition for Declaratory Ruling until such time as the parties have notified the Commission that they have concluded an agreement addressing those aspects of the proposed assignments that potentially raise national security, law enforcement, and public safety concerns.

Respectfully submitted,

John B. Reynolds, III
Wiley Rein & Fielding LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7000
Counsel for Intelsat LLC and Intelsat MTC LLC, Counsel for Intelsat North America

Joan M. Griffin by JBR
Joan M. Griffin
Kelley Drye & Warren LLP
8000 Towers Crescent Drive
Suite 1200
Vienna, VA 22182
(703) 918-2320
Counsel for COMSAT General Corporation, Lockheed Martin Global Telecom LLC, and COMSAT New Services, Inc.

Laura H. Parsky
Deputy Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 616-3928

Patrick W. Kelley
Deputy General Counsel
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20532
(202) 324-6829

Dated: August ____, 2004