

FEDERAL COMMUNICATIONS COMMISSION

FCC 01-369

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

In the Matter of)

Lockheed Martin Global Telecommunications,
Comsat Corporation, and Comsat General
Corporation, Assignor)

File Nos. SES-ASG-20010504 00896

ITC-ASG-20010504-00302

ISP-PDR-20010510-00025

and)

ULS-0000449956

Telenor Satellite Mobile Services, Inc. and
and Telenor Satellite, Inc., Assignee)

41-EX-AL-2001

42-EX-AL-2001

43-EX-AL-2001

44-EX-AL-2001

Applications for Assignment of Section 214
Authorizations, Private Land Mobile Radio
Licenses, Experimental Licenses, and Earth
Station Licenses)

and)

Petition for Declaratory Ruling Pursuant to
Section 310(b)(4) of the Communications Act)

ORDER AND AUTHORIZATION

Adopted: December 14, 2001

Released: December 18, 2001

By the Commission: Commissioner Copps dissenting and issuing a statement.

I. INTRODUCTION

1. In this Order, we grant the applications filed by Lockheed Martin Global Telecommunications (LMGT), Comsat Corporation, and Comsat General Corporation (Comsat General) (collectively, Assignor or Comsat), together with Telenor Satellite Services Holding s, Inc. (TSSH),¹ Telenor Satellite Inc. (Telenor Satellite), and Telenor Broadband Services AS (Telenor Broadband) (collectively, Assignee)² (herein Assignor and Assignee are collectively referred to as Applicants) to assign certain Title II common carrier authorizations and Title III

¹ Telenor Satellite Mobile Services, Inc. was the original party filing in this proceeding. Effective October 17, 2001, the company changed its name to Telenor Satellite Services Holding s, Inc. See Letter from George Klienfeld, Counsel for Telenor, to Magalie Roman Salas, Secretary, Federal Communications Commission, October 30, 2001 (October 30, 2001 Supplemental Filing). As explained in the letter, the corporate name change was made for marketing reasons and does not affect the structure of the proposed transaction. Therefore, throughout this Order, we refer to the original party, Telenor Satellite Mobile Services, Inc., as Telenor Satellite Services Holding s, Inc.

² As described in Section II. A. below, the ultimate corporate parent of the Telenor companies named as the Assignee in this proceeding is Telenor ASA. See *infra* paras. 5-8.

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current system to the benefit of U.S.-based customers whom Telenor ASA currently does not serve.¹⁵²

53. Given that we have found no evidence of potential harm to competition resulting from the proposed transaction, and in view of these stated benefits, we find that based on the claimed benefits, the proposed transaction would be in the public interest. In doing so, we rely on the representations made by the Applicants in this proceeding. Specifically, we rely on statements by the Applicants that control of the licenses and authorizations will rest with Telenor Satellite and that control of the assets relating to the licenses and authorizations will rest with Telenor Satellite or will be under common control of Telenor Satellite's parent company. Should control of either be transferred to another entity, the Applicants represent Telenor Satellite and its relevant parent companies would submit appropriate filings to the Commission.

IV. ADDITIONAL AUTHORIZATIONS AND WAIVER OF CUT-OFF RULES

54. The Applicants request that grant of the *Assignment Application* include authority for assignment to Telenor Satellite of (1) any authorizations that might be issued during the pendency of this proceeding and (2) any applications that may have been filed by Comsat/CMC and that are still pending at the time of the effective date of this Order.¹⁵³ The Applicants also request a blanket exemption from any applicable cut-off rules in cases where amendments are filed to pending Part 25 or other applications to reflect the consummation of the assignments.¹⁵⁴

55. We conclude that any authorizations issued during the pendency of this proceeding or filed after the initial application and still pending at the time of the release of this Order and Authorization should be deemed to be covered by this Order and Authorization to the extent that the pending applications are listed in Appendix A. The Applicants should amend any current pending applications to reflect the transaction approved by this Order and Authorization consistent with Section 1.65 of the Commission's rules.¹⁵⁵

56. The waiver request did not identify, nor are we aware of, any pending applications that are subject to a cut-off deadline. Therefore, under these circumstances, no waiver is necessary. Accordingly, the waiver request is rendered moot.

V. CONCLUSION

57. In view of the foregoing, we find that granting the applications to assign the licenses and authorizations listed in Appendix A to Telenor Satellite will serve the public interest, convenience, and necessity consistent with Sections 214(a) and 310(d) of the Communications Act of 1934, by increasing competition in the satellite services markets to the benefit of U.S. consumers. We also conclude that assignment of the listed international Section 214 authorizations will not create risks to competition in the U.S. international services markets that would warrant the imposition of additional competitive safeguards. Finally, pursuant to

¹⁵² *Id.* at 29.

¹⁵³ *Id.* at 17.

¹⁵⁴ *Id.* at 17-18.

¹⁵⁵ 47 C.F.R. § 1.65.

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Section 310(b)(4) and the Commission's "open entry" standard for indirect investment by WTO Members in U.S. common carrier licenses, we conclude that it will not serve the public interest to prohibit the proposed indirect foreign ownership of Telenor Satellite in excess of the statutory 25 percent benchmark. On this basis and for the reasons described in this Order and Authorization, we grant the Applicants' request to the extent described above.

VI. ORDERING CLAUSES

58. Accordingly, IT IS ORDERED that, pursuant to Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), the application for assignment of licenses listed in Appendix A, IS GRANTED to the extent specified in this Order and Authorization.

59. IT IS FURTHER ORDERED that, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, the application for assignment of Section 214 authorizations listed in Appendix A, IS GRANTED to the extent specified in this Order and Authorization.

60. IT IS FURTHER ORDERED that, the Petition for Protective Orders filed by Litigation Trust Recovery is DENIED.

61. IT IS FURTHER ORDERED that, the Motion for Waiver to Accept Pleading filed by Litigation Trust Recovery is DENIED.

62. IT IS FURTHER ORDERED that, pursuant to Section 310(b)(4) of the Communications Act of 1934, as amended, the petition for declaratory ruling filed by Applicants IS GRANTED to the extent specified in the order. Accordingly, Telenor Satellite is authorized to accept indirect foreign ownership in excess of the twenty-five percent benchmark in Section 310(b)(4) of the Act, as specified in this Order and Authorization.

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63. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and (j), 214(a) and (c), 309 and 310(b) and (d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and (j), 214(a) and (c), 309, 310(b) and (d), the Petition to Adopt Conditions to Authorizations and Licenses filed by the Department of Justice and the Federal Bureau of Investigation on November 30, 2001, IS GRANTED, and that the authorizations and licenses related thereto which are to be assigned as a result of this Order and Authorization are subject to compliance with provisions of the Agreement between with Telenor Satellite Services Holdings, Inc., Telenor Satellite Inc., Telenor Satellite Services, Inc., and Telenor Broadband AS, and the Department of Justice and the Federal Bureau of Investigation dated November 29, 2001 and attached hereto as Appendix B, which Agreement is designed to address the national security, law enforcement, and public safety concerns of the Department of Justice and the Federal Bureau of Investigation regarding the authority granted herein, is fully binding upon and those subsidiaries, successors and assigns thereof that provide telecommunications services within the United States. Nothing in the Agreement is intended to limit any obligation imposed by Federal law or regulation including, but not limited to, 47 U.S.C. §§ 222(a) and (c)(1) and the Commission's implementing regulations.

64. IT IS FURTHER ORDERED that, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.10 of the Commission's rules, 47 C.F.R. § 63.10, that Telenor Satellite shall be regulated as a dominant international carrier on the U.S.-Norway route, and as a non-dominant international carrier on its

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other authorized routes.

65. IT IS FURTHER ORDERED that, pursuant to Section 1.65 of the Commission's Rules, 47 C.F.R. § 1.65, the Applicants are afforded thirty days from the date of release of this Order and Authorization to amend all such pending applications in connection with the instant Application to reflect the new ownership structure approved in this Order and Authorization.

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Magalie Romas Salas
Secretary

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APPENDIX A

CALL SIGN/FILE NO.	CLASS OF STATION	CALL SIGN/FILE NO.	CLASS OF STATION
ITC-88-087	214	WB38 (SES-LIC-20010530-01007)	Fixed Earth Station
ITC-88-149	214	KB34	Fixed Land Earth Station
ITC-87-027	214	KA305	Fixed Earth Station
ITC-87-111	214	KA304	Fixed Earth Station
ITC-88-084	214	KA313	Fixed Land Earth Stations
ITC-89-076	214	KA312	Fixed Land Earth Stations
ITC-90-129	214	KA31	Fixed Land Earth Station
ITC-89-119	214	^(N) WA28	Fixed Earth Station
ITC-92-030, ITC-92-031	214	E990027	Fixed Land Earth Station
ITC-90-085	214	E990034	Fixed Land Earth Station
ITC-90-133	214	E990032	Fixed Land Earth Station
ITC-92-083	214	E980136	Fixed Land Earth Station
ITC-91-228	214	E930320	Fixed Earth Station
ITC-92-076	214	E980137	Fixed Land Earth Station
ITC-92-075	214	E990422	Fixed Earth Station
ITC-91-088; ITC-91-089	214	E890649	Fixed Earth Station
ITC-91-139; ITC-91-088; ITC-91-089; ITC-91-228; ITC-92-030, 031, 032	214	KA249	Fixed Land Earth Station
ITC-94-016	214	E000280	Mobile Earth Station
ITC-94-025	214	E000282	Mobile Earth Station
ITC-94-077	214	E000283	Mobile Earth Station
ITC-214-19960501-00176 (ITC-96-278)	214	^(N) E000284 (SES-LIC-20000609-00948)	Mobile Earth Station
CC Docket 87-75	214	E000285	Mobile Earth Station
*ITC-214-19931105-00009 (ITC-94-039)	214	SES-STA-20010907-01723	Mobile Earth Station
*42-SAT-STA-97	214	^(N) STA	Test and Demo
*ITC-214-19950511-00019 (ITC-95-341)	214	SES-STA-20010530-01007	Mobile Earth Station
SES-MSC-19990331-02474	214	SES-STA-20010308-00523	Mobile Earth Station
*SAT-ITC-19970710-00059 (000103-SAT-ITC-97)	214	SES-STA-20010508-00909	Mobile Earth Station
*SAT-ITC-19990609-00083	214	SES-STA-2001-628-01230	Mobile Earth Station
*SAT-ITC-20000805-00103	214	WC2XRT	Aero Station at Southbury, CT
ITC-97-222; ITC-214-19970414-000206	214	WC2XNE	Developmental (Fixed)
^(N) SAT-STA-19990609-00064	214	WC2XMG	Developmental (Fixed)
ITC-94-063	214	^(N) KA2XHN	Developmental (Fixed)
ITC-95-422	214	WA2XGG	Developmental (Fixed)
ITC-93-266	214	^(C) KB42877	Industrial Business
SES-STA-20010719-1338	214		

Non-Common Carrier

* Application Pending

⁽¹⁾ Authorization granted;
awaiting issuance of license⁽¹⁾ Renewal Application Pending⁽²⁾ STA Extension Request Pending^(C) Comsat General Corporation