

3 of 4 DOCUMENTS

In the Matter of IDB AERO-NAUTICAL COMMUNICATIONS, INC.,
Applications for Authority to Provide International Land
Mobile-Satellite Services Outside of North America via the
Inmarsat System

File Nos. I-T-C-92-058, I-T-C-92-059, I-T-C-93-013,
I-T-C-93-014

FEDERAL COMMUNICATIONS COMMISSION

8 FCC Rcd 930; 1993 FCC LEXIS 734

RELEASE-NUMBER:

DA 93-150

February 12, 1993 Released; Adopted February 2, 1993

ACTION: **1

MEMORANDUM OPINION, ORDER AND CERTIFICATE

JUDGES:

By the Chief, International Facilities Division

OPINIONBY:

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OPINION:

*930 1. On December 6, 1991, IDB Aero-Nautical Communications, Inc. (IDB) filed applications pursuant to Sections 503 and 504(c) of the International Maritime Satellite Telecommunications Act and Section 214 of the Communications Act of 1934, as amended, for authority to provide international land mobile-satellite services (LMSS) to mobile-satellite terminals outside of North America via the International Maritime Satellite Organization (Inmarsat) First and Second Generation satellites. We also have consolidated into this proceeding consideration of IDB's request to provide such services on Inmarsat Standard C terminals. n1 The Communications Satellite Corporation (Comsat) filed the only comments in this proceeding, stating that to enhance U.S. competitiveness, the Commission should promptly grant these applications. For the reasons discussed below, we grant IDB's applications.

n1 See IDB Aero-Nautical Communications, Inc., (File Nos. I-T-C-93-013 and I-T-C-93-014), DA 93-116, adopted January 29, 1993, wherein we deferred consideration of IDB's request to provide Inmarsat-C LMSS to this proceeding.
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I. THE APPLICATIONS

2. IDB requests authority to provide international LMSS n2 to any eligible mobile-satellite terminal in any foreign point outside North America reached by the Inmarsat System. n3 IDB proposes to provide such services in: 1) the Atlantic Ocean Region-East (AOR-E) via Southwest Communications, Inc.'s (SCI's) n4 authorized fixed land earth station (LES) n5 at Staten Island, New York (call

sign KA-227); 2) the Atlantic Ocean Region-West (AOR-W) and Pacific Ocean Region (POR) via SCI's authorized fixed LES at Niles Canyon, California (call signs KA-63 and KA-76, respectively); and 3) in the Indian Ocean Region (IOR) via OTC Limited of Australia's foreign fixed LES at Perth, Australia. As noted above, IDB has subsequently requested authority to provide Inmarsat-C international LMSS in: 1) the ship-to-shore direction in the AOR-E via PTT Telecom Netherlands' foreign fixed LES at Burum, the Netherlands; 2) the ship-to-shore direction in the POR via the Perth, Australia foreign LES; 3) the ship-to-shore and shore-to-ship directions in the IOR via the Perth, Australia foreign LES; and 4) the ship-to-shore direction in the AOR-W via Comsat's LES at Southbury, Connecticut. **3

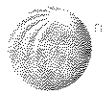
n2 The term "international" LMSS, as used in IDB's applications, refers to (1) mobile-satellite communications (via fixed land earth stations in the United States, the Netherlands, and Australia) within and between foreign countries, excluding Canada and Mexico, and (2) communications between fixed land earth stations in the United States, the Netherlands and Australia and mobile-satellite terminals located outside of North America. For purposes of these applications, North America is defined as comprising the land area of Canada, Mexico, and the United States. The United States includes Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands.

n3 IDB has categorized this request as one for "blanket" authority. However, we do not choose to use this term due to the ambiguity between this and other cases where blanket authority is used to license a large number of mobile terminals. Here, we are not licensing the mobile-satellite terminals used to provide LMSS, but instead grant authority to provide land mobile-satellite service to those mobile-satellite terminals already licensed by the foreign telecommunications authority of the country in which the terminals operate.

n4 IDB's application states that it will utilize its own land earth stations to provide international LMSS. However, subsequent to the filing of IDB's subject applications, the Commission approved the assignment of the Title III radio licenses for these land earth stations to Southwest Communications, Inc. See CICI Inc. and IDB Communications Corporation, 7 FCC Rcd 6031 (Int. Fac. Div. 1992). IDB has informed the Commission's staff that it still plans on utilizing these land earth stations. We note that IDB is currently providing international LMSS via SCI's stations pursuant to special temporary authority originally granted to IDB prior to the assignment of the earth station licenses. See Special Temporary Authority, TAO-2081, granted August 7, 1992. However, before IDB can continue offering international LMSS from SCI's fixed land earth stations, the licenses of these earth stations must be modified to provide for international LMSS. Therefore, part of this grant will be contingent on SCI receiving authority to provide international LMSS via its land earth stations consistent with this Order.

n5 IDB uses the term "coast earth station" instead of "land earth station" in its application. For purposes of conformity, we will refer to these stations as "land earth stations," as does Inmarsat in its Convention. See Inmarsat Basic Documents, (4th ed. 1989). **4

3. IDB does not herein seek authority to construct or operate new satellite or fixed land earth station telecommunications facilities or to offer any new types of service to land mobile-satellite terminals, other than the types of services it already is authorized to, or has applied for authorization to, offer to maritime and aeronautical mobile-satellite terminals. n6 IDB proposes to provide international LMSS consistent with the frequency bands the Commission



has allocated for maritime services. n7 This *931 proceeding is limited to the terms of IDB's requests. Thus, we do not consider whether to grant IDB authority to provide international LMSS via any other facilities or service types (e.g. Inmarsat Third Generation satellites. Communications Satellite Corp., 7 FCC Rcd 6278 (1992)).

n6 A service is defined both by the type of terminal served (e.g., Standard A and C) and by the type of transmission carried by that terminal (e.g. voice, data or compressed video).

n7 The only portions of the proposed satellite communications services that will occur actually within the United States will be satellite uplinks from, and downlinks to, SCI's and Comsat's U.S. fixed LESs operating in C-Band (except for narrowband pilot, test, and order wire signals operating in the L band). IDB states these LESs will transmit to Inmarsat Second Generation satellites on 6425-6440 MHz and receive on 3600-3620 MHz. Inmarsat First Generation satellites will only be used as backups to the Second Generation satellites. Due to operational constraints associated with the Inmarsat First Generation satellites (these satellites are only capable of supporting 7.5 MHz of these frequency bands), these LESs will transmit on 6417.5-6425 MHz and receive on 4192.5-4200 MHz when operating with these satellites. IDB states the international land mobile-satellite terminals to which it will provide service will communicate in the transmit frequency bands 1626.5-1645.5 MHz and the receive frequency bands 1530-1544 MHz for the mobile-to-satellite and satellite-to-mobile links of its international land mobile-satellite services. In accordance with the priority and pre-emption requirements of the GMDSS, the bands 1544-1545 MHz (receive) and 1645.5-1646.5 MHz (transmit) will only be used for maritime safety and distress communications. **5

4. IDB's applications appear to encompass not only international LMSS, but also service to international land-based temporary fixed-satellite earth stations operating in the LMSS frequency bands authorized herein. Although this latter service is a fixed-satellite service, and not a land mobile-satellite service, we believe it is comparable in many ways to a land mobile-satellite service. Given these circumstances, we find it is administratively efficient to address international land-based temporary fixed-satellite service in this proceeding. Thus, any findings we make in regard to international land mobile-satellite terminals and services apply equally to international temporary fixed-satellite terminals and services operating outside of North America.

5. IDB states that land mobile-satellite terminals which may be needed to support voice services, from time to time, will utilize directive antennas in order to conserve satellite resources and protect link margins on the maritime mobile-satellite services (MMSS) operating in the band. IDB states it is cognizant of its statutory mandate to serve maritime commercial, safety and distress needs, and recognizes that serving those **6 needs remains its first priority. IDB states that it will make its best efforts to assure that Global Maritime Distress and Safety System (GMDSS) calls receive priority over any LMSS communications.

II. DISCUSSION

6. The Commission recently authorized Comsat to provide international LMSS. n8 In so doing, the Commission determined that it has the authority consistent with the Inmarsat Convention and Operating Agreement to authorize U.S. participation in land mobile-satellite services via Inmarsat. n9 The Commission also determined that allowing U.S. companies to provide international LMSS is in

the public interest. n10 Therefore, we need only consider here whether IDB's proposed offering of international LMSS is consistent with the guidelines the Commission established in granting Comsat's international LMSS application.

n8 Communications Satellite Corporation, FCC 93-21, released January 27, 1993.

n9 Id. at P13.

n10 Id. at PP20-23.

7. IDB's application to provide international LMSS mirrors the application Comsat had filed for these services. Like Comsat, IDB requests authority to serve only those mobile-satellite terminals in foreign points outside of North America **7 reached by the Inmarsat System. IDB will use only the First and Second Generation satellites of the Inmarsat System. Further, IDB will maintain as its first priority serving maritime commercial, safety and distress needs. Therefore, we find that grant of IDB's application would be consistent with Commission precedent.

8. In addition, as the Commission found with Comsat, the provision of international LMSS by IDB would be within the public interest. IDB already is authorized to provide MMSS and aeronautical mobile-satellite services (AMSS). By granting IDB's applications, IDB will be able to offer the full panoply of mobile satellite service offerings. This will enhance U.S. competitiveness in foreign markets enabling IDB to compete effectively with Comsat and foreign signatories, who already are able to offer their customers full-service, integrated mobile satellite service offerings. IDB will now be able to spread its capital costs over its LMSS, as well as the MMSS and AMSS offerings, leading to greater utilization of expensive earth station facilities and therefore, lower per-message costs. Further, IDB's provision of international LMSS in foreign countries will enable **8 its users with combined maritime and terrestrial communications needs to achieve substantial economies by utilizing an integrated communications system and similar mobile-satellite terminals to satisfy those needs. n11

n11 Due to technical similarities between MMSS terminals and (voice) LMSS terminals, Inmarsat is able to allocate its space segment resources efficiently to accommodate multiple applications, yielding the economies and efficiencies that multipurpose systems afford. IDB will use the same Inmarsat space segment and the same land earth station facilities and internationally allocated spectrum to provide these international land mobile services, and users will operate similar terminals to send and receive communications.

III. CONCLUSION

9. We find that grant of these applications is fully consistent with Commission precedent. IDB's provision of international LMSS complies with U.S. obligations under the Inmarsat Convention and Operating Agreement. Further, we find this grant will advance U.S. competitiveness in world markets. Therefore, we conclude the grant of IDB's applications will serve the public interest, convenience and necessity.

10. Thus, IDB is **9 authorized to provide land mobile-satellite services within and between foreign countries (excluding Canada and Mexico) and between fixed land earth stations in the United States, the Netherlands, and Australia and mobile-satellite terminals located outside of North America. IDB

does not request *932 and, we do not here grant, authority to provide land mobile-satellite services to or from mobile-satellite terminals located in North America as defined herein.

IV. ORDERING CLAUSES

11. Upon consideration of the above-captioned applications, filed pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of certain international land mobile-satellite and land-based temporary fixed-satellite services by IDB Aero-Nautical Communications, Inc.

12. Accordingly, IT IS ORDERED that, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Sections 503 and 504 of the International Maritime Satellite Act of 1978, 47 U.S.C. §§ 752 **10 and 753, applications File Nos. I-T-C-92-058 and I-T-C-92-059 ARE GRANTED and IDB Aero-Nautical Communications, Inc. IS AUTHORIZED to provide international land mobile-satellite and land-based temporary fixed-satellite services within and between foreign countries, excluding Canada and Mexico, n12 and between fixed land earth stations in the United States and Australia and mobile-satellite terminals in foreign points outside of North America (as defined herein at note 2). These services are to be provided in: 1) the Atlantic Ocean Region-East via Southwest Communications, Inc.'s authorized fixed land earth station at Staten Island, New York (call sign KA-227); 2) the Atlantic Ocean Region-West and Pacific Ocean Region via Southwest Communications, Inc.'s authorized fixed land earth stations at Niles Canyon, California (call signs KA-63 and KA-76, respectively); and 3) the Indian Ocean Region via OTC Limited of Australia's foreign fixed land earth station at Perth, Australia.

n12 Service also shall be excluded to countries for which the United States has an embargo on telecommunications.

13. IT IS FURTHER ORDERED that, pursuant to Section 214 of the Communications Act of 1934, **11 as amended, 47 U.S.C. § 214, and Sections 503 and 504 of the International Maritime Satellite Act of 1978, 47 U.S.C. §§ 752 and 753, and subject to the limitations contained in paragraph 12 herein, the deferred sections of applications File Nos. I-T-C-93-013 and I-T-C-93-014 ARE GRANTED and IDB Aero-Nautical Communications, Inc. IS AUTHORIZED to provide Inmarsat Standard-C international land mobile-satellite services in: 1) the ship-to-shore direction in the Atlantic Ocean Region-East via PTT Telecom Netherlands' foreign fixed land earth station at Burum, the Netherlands; 2) the ship-to-shore direction in the Pacific Ocean Region via the Perth, Australia foreign fixed land earth station; 3) the ship-to-shore direction in the Atlantic Ocean Region-West via Comsat's fixed land earth station at Southbury, Connecticut, and 4) the ship-to-shore and shore-to-ship directions in the Indian Ocean Region via OTC Limited of Australia's foreign fixed land earth station at Perth, Australia. IDB also is authorized to provide Inmarsat Standard-C international land-based temporary fixed-satellite services in the Indian Ocean **12 Region via the Perth, Australia foreign fixed land earth station.

14. IT IS FURTHER ORDERED that IDB is authorized to provide international LMSS and land-based temporary fixed-satellite services only within the frequency bands specified below which are consistent with the U.S. allocation for maritime services. Thus, IDB shall serve only those land mobile-satellite and land-based temporary fixed-satellite terminals communicating in the transmit frequency band

1626.5-1645.5 MHz and the receive frequency band 1530-1544 MHz for the mobile-to-satellite and satellite-to-mobile links of its international land mobile-satellite services. In addition, users of this service shall obtain the appropriate license or other authorization from the local telecommunications authority of the country in which the terminal will be used and any necessary licenses or authorizations from Agencies or Departments of the United States government (such as Treasury or Commerce). Thus, this authorization shall not be construed as providing domestic uplink or downlink authority within countries outside of the United States.

15. IT IS FURTHER ORDERED that IDB shall provide international LMSS via SCI's and **13 Comsat's fixed land earth stations only if these earth stations have been authorized to provide this service, and are transmitting via the Inmarsat Second Generation satellites on 6425-6440 MHz and receiving on 3600-3620 MHz. IDB may also use these land earth stations when they are providing land mobile-satellite service via Inmarsat First Generation satellites transmitting on 6417.5-6425 MHz and receiving on 4192.5-4200 MHz, but only when these satellites are being used as backups to the Second Generation satellites.

16. IT IS FURTHER ORDERED that this broad authority does not cover the provision of international land mobile-satellite services or land-based temporary fixed-satellite services via any new land earth stations or Inmarsat satellites or cover any land mobile-satellite services not specifically authorized herein.

17. IT IS FURTHER ORDERED that this authorization is conditioned upon completion of the consultation(s) required by Article XIV(d) of the Intelsat Agreement to ensure technical compatibility and to avoid significant economic harm. In addition, IDB shall maintain as its first priority the service of maritime commercial, safety and distress needs, and in particular **14 uphold the safety and distress requirements of the Global Maritime Distress and Safety System.

18. IT IS FURTHER ORDERED that IDB will be classified as dominant in the provision of the services authorized herein.

19. IT IS FURTHER ORDERED that, pursuant to Section 203 of the Communications Act, 47 U.S.C. § 203, Part 61 of the Commission's Rules, 47 C.F.R. Part 61, and Section 504 of the Inmarsat Act, 47 U.S.C. § 754, IDB shall file such amendments to current tariffs with the Commission consistent with this decision. IDB also shall file, within 90 days of the release of this Order, a complete description of its accounting system and cost allocation procedures.

20. IT IS FURTHER ORDERED that IDB shall file copies of any operating agreements entered into by itself or its parent/affiliates with its correspondents within 30 days of their execution.

*933 21. IT IS FURTHER ORDERED that IDB shall file quarterly reports of revenue, number of messages, and number of minutes of both originating and terminating traffic for all international services between the United States and all international points it **15 is authorized to serve within 90 days from the end of each calendar quarter.

22. IT IS FURTHER ORDERED that IDB shall file with the Commission every six months a letter reporting Inmarsat's progress in developing a means of distinguishing between maritime, aeronautical, and land mobile-satellite transmissions to allow for the primacy of maritime services and compliance with

Commission Regulations and Rules regarding the use of these bands.

23. The Commission retains jurisdiction over this matter to ensure the nondiscriminatory use of, and equitable access to, the Inmarsat satellite system.

24. This order is issued under § 0.291 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under § 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of public notice of this order (See Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li

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