

1 of 2 DOCUMENTS

In the Matter of IDB MOBILE COMMUNICATIONS, INC. Application
or Authority to Provide Aeronautical Mobile Satellite
Service in the Ground-to-Air Direction via the INMARSAT
System in the Atlantic Ocean Region-East and the Indian
Ocean Region

File No. 1-T-C-95-359

FEDERAL COMMUNICATIONS COMMISSION

10 FCC Rcd 12082; 1995 FCC LEXIS 7178

RELEASE-NUMBER: DA 95-2136

November 3, 1995 Released; Adopted October 6, 1995

ACTION: **1 MEMORANDUM OPINION, ORDER, AUTHORIZATION,
AND CERTIFICATE

JUDGES:

By the Chief, Telecommunications Division

OPINIONBY:
CORNELL

OPINION:

*12082 I. INTRODUCTION

1. On May 26, 1995, IDB Mobile Communications, Inc. (IDB) filed the above-captioned application. IDB requests authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.01 of the Commission's Rules, to provide aeronautical mobile satellite services (AMSS) in the ground-to-air direction via the International Maritime Satellite Organization (INMARSAT) system in the Atlantic Ocean Region-East (AOR-E) and the Indian Ocean Region (IOR). The Communications Satellite Corporation (COMSAT) filed the only comments in this proceeding, noting its concerns about IDB's use of foreign land earth stations (LES) in the ground-to-air segment, but declaring that it will not oppose the instant application. For the reasons discussed below, we grant IDB's application.

nl IDB uses the term "ground 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). **2

II. THE APPLICATION

2. IDB requests authority to provide AMSS in the ground-to-air direction via the INMARSAT system, using first, second, and third generation satellites in: 1) the AOR-E, by means of LES facilities at Ausseval, France; and 2) in the IOR, by means of LES facilities in Perth, Australia.

3. IDB states that AMSS will include slow and high speed cockpit data

services, together with digitally encoded voice services for flight operations, airline administrative traffic, automatic dependent surveillance, and passenger voice communications. IDB maintains that grant of the authority requested in its application will permit it to offer services that will greatly improve aviation communications and contribute to improved aviation safety and efficiency of airline operations.

4. IDB asserts that the ability to provide global INMARSAT aeronautical services is of enormous benefit to its potential customers and is vital for IDB to compete effectively with COMSAT and foreign signatories already offering or soon to offer global coverage. IDB also states that there is an increasing demand for AMSS, and that competition in the AMSS market will increase service options to the **3 public, improve overall service, and reduce charges. Moreover, IDB declares that existing facilities are inadequate because it presently cannot offer ground-to-air service to U.S. customers who need to contact airplanes in international flight.

III. COMMENT

5. In its comments, COMSAT declares that it will not oppose the instant application by IDB. COMSAT does, however, voice concern about IDB's proposed use of foreign LESs and foreign provided space segment. COMSAT states that under the International Maritime Satellite Telecommunications Act of 1978, participating carriers sending U.S.-originating traffic via the INMARSAT system are required to use COMSAT provided space segment. COMSAT states that it has refrained from opposing certain limited uses of foreign LESs for U.S.-originating traffic in the past. COMSAT points out, however, that it has not intended to establish any precedent with respect to future proposals to use foreign LESs to carry such traffic where extraordinary circumstances, which make it impossible at that time to carry U.S.-originating INMARSAT traffic other than through a foreign LES, do not exist.

IV. DISCUSSION

6. In 1991, IDB requested authority **4 to provide INMARSAT AMSS to the Pacific Ocean Region (POR) and the Atlantic Ocean Region (AOR). The Commission authorized IDB to provide these services. n2 In that case, the Commission found that the grant of IDB's application would serve the public interest and advance the Commission's goal of promoting competition in the provision of INMARSAT aeronautical services. n3 We note the substantial similarity between the request for authority mentioned above and that at issue in the instant application.

n2 IDB Aeronautical Communications, Inc., 6 FCC Rcd 2485 (1991).

n3 Id. at 2487.

7. IDB's application to provide INMARSAT AMSS to the AOR-E and IOR mirrors closely its prior application to provide such services in the POR and AOR. n4 Grant of IDB's application will permit competition in the AOR-E and IOR aeronautical markets that should increase service options to the public, improve overall service, and reduce charges. n5 We note that, as with earlier applications by IDB *12083 to provide certain overseas satellite services, n6 the extraordinary circumstances present here, including the fact that COMSAT does not provide **5 LES facilities in either region, make it necessary for IDB to use foreign LESs in order to provide AMSS service in the AOR-E and the IOR. Because we recognize that it would not be possible for IDB to provide these services other than through foreign LESs, we limit our decision to allow use of



the foreign LESs to the particular facts of this case.

n4 See id.

n5 See id. at 2487 (finding that grant of applications should produce such changes).

n6 IDB Aeronautical Communications, Inc., 6 FCC Rcd 5962, 5962 & n.5 (1991).

V. CONCLUSION

8. We find that grant of this application is fully consistent with Commission precedent and will advance U.S. competitiveness in world markets. Based on our findings and Commission precedent, n7 we conclude that the grant of IDB's applications will serve the public interest, convenience and necessity.

n7 TSee IDB Aeronautical Communications, Inc., 6 FCC Rcd 2485, 2487 (1991).

9. Thus, IDB is authorized to provide AMSS in the ground-to-air direction via the INMARSAT system in: 1) the AOR-E, by means of a land earth station at Aussegal, France; and 2) in **6 the IOR, by means of a land earth station in Perth, Australia.

VI. ORDERING CLAUSES

10. 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 aeronautical mobile satellite services by IDB Mobile Communications, Inc.

11. 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 and 753, application File No. I-T-C-95-359 IS GRANTED and IDB Mobile Communications, Inc. IS AUTHORIZED to provide aeronautical mobile satellite services: 1) in the Atlantic Ocean Region-East via France Telecom's foreign fixed land earth station at Aussegal, France, and 2) in the Indian Ocean Region via Telstra's foreign fixed land earth station at Perth, Australia.

12. IT IS FURTHER ORDERED that IDB will be classified as dominant **7 in the provision of the services authorized herein.

13. 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 International Maritime Satellite Telecommunications Act of 1978, 47 U.S.C. § 754, IDB shall file such amendments to current tariffs with the Commission consistent with this decision.

14. 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.

15. IT IS FURTHER ORDERED that IDB shall provide aeronautical satellite service only to aircraft in international flight as defined by the Commission's decision in CC Docket No. 87-75.

16. IT IS FURTHER ORDERED that IDB shall comply with established arrangements for handing-off aeronautical traffic between the INMARSAT system and a domestic system in accordance with the Commission's decision in Docket No. 87-75.

17. The Commission retains jurisdiction over this matter to ensure the nondiscriminatory use of, and equitable **8 access to, the INMARSAT satellite system.

18. This order is issued under § 0.261 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

Diane J. Cornell

Chief, Telecommunications Division

International Bureau