

Office of Technical Standards
Bureau of Economic and
Business Affairs Room
2529 U.S. Department of
State
Washington, D.C. 20520

Re: Application File No. ROA-NEW-20010627-00001

Dear MS Gordon:

On July 18, 2001, the International Telecommunications Satellite Organization

(INTELSAT), an intergovernmental organization, is scheduled to become a private corporation. Intelsat, Ltd, incorporated under the laws of Bermuda. In anticipation of such privatization, Intelsat LLC (Intelsat), on June 27, 2001, filed an application, File No. ROA-NEW-2(X)1062700001, requesting designation under the Commission's Rules and Regulations, 17 C.F.R. s 63.701 (2000), as a recognized operating agency (ROA). The application was placed on public notice on June 29, 2001. The Commission received no comments regarding the application. Based on the information before us, we recommend that the United States Department of State grant the subject request, effective upon completion of the projected privatization.

Our review of the subject application indicates that Intelsat has provided all the information required by Section 63.701 of the Commission's Rules and Regulations, 47 C.F.R. 5 63.701, to be contained in applications requesting designation as an ROA. Intelsat's application states that it is a limited liability organization under the laws of Delaware, with its principal offices at 3300 International Drive, N.W., Washington, DC 20008.

Intelsat further states that it is a wholly-owned subsidiary of Intelsat Holdings LLC, a limited liability company also organized under the laws of Delaware. Intelsat Holdings, in turn, is owned by Intelsat, Ltd. Intelsat has included with its application a copy of the Certificate of Formation of Intelsat LLC and a copy of the Limited Liability Company Agreement of Intelsat LLC.

The Commission's regulation under which Intelsat filed its application uses the term "recognized private operating agency." because that was the term used in the International Telecommunication Convention, Edition Nairobi, 1982, that was in effect at the time the Commission adopted the regulation.

Subsequently, however, an ITU Plenipotentiary Conference, held in Nice, France, adopted a new Convention for the ITU and created a new document called the ITU Constitution. The Conference moved some of the provisions that had formerly appeared in the Convention to the

operates a public correspondence or broadcasting service . . .” Id. The Geneva Constitution further defines an “operating agency” as “[a]ny individual, company, corporation or governmental agency which operates a telecommunication installation intended for an international telecommunication service or capable of causing harmful interference with such service.” Id. To conform to current ITU usage, this letter will use the term ROA to refer to \\\,hat the applicant and the Commission’s rules meant by RPOA.

Intelsat states that it is licensed under Title III of the Communications Act of 1933, 37 USC Title

III, to construct, launch and operate a geostationary-satellite orbit, fixed-satellite service system to provide space segment capacity to common carriers and other users.

Our review of the subject application indicates that Intelsat operates radio frequencies

that are capable of causing harmful interference to the radio services of other countries and that, consequently, it is an “operating agency” as that term is used in the ITU Constitution. As a result, it is appropriate for Intelsat to be designated as an ROA.

Intelsat states that it is aware of its obligations under Article 4-I of the ITU Convention and that it will obey the mandatory provisions of the Convention and the International

Telecommunication Regulations promulgated thereunder in all respects. Intelsat also states that it is aware that a failure to comply with the Convention or mandatory regulations could result in an order from the Commission for it to cease and desist from future violations and could result in revocation of its formal ROA status by the Department of State.

In 1989 the Nice Plenipotentiary Conference moved the obligations formerly appearing

in Article 44 of the ITU Convention to Article Six of the ITU Constitution that Conference adopted. The Geneva Additional Plenipotentiary Conference made minor changes to the language of Article Six so that it now provides that “[ITU] Members are bound to abide by the provisions of this Constitution, the Convention and the Administrative Regulations in all telecommunications offices . . . operated by them which engage in international services or which are capable of causing harmful interference to radio services of other countries” and to impose such obligations upon all “operating agencies authorized by them . . .” ITU, Final Acts of the Additional Plenipotentiary Conference, Constitution, Article 6, p. 7 (Edition Geneva, 1992). In view of these changes, we read Intelsat’s statements regarding its intention to comply with Article 44 to encompass an intention to comply with its obligations under Article Six of the Constitution as well.

In any event, however, Intelsat’s obligation to comply with the binding ITU documents

does not depend upon its formal recognition as an ROA or its statement that it will obey them. Rather, as a company operating within the United States or under the jurisdiction of the U. S. government, Intelsat is bound by all U.S. laws and regulations, including all treaties and

Con*ention. Further, Intelsat has stated its intention to honor its obligations under the mandatory provisions of the
Con\ sntlon and any rules promulgated thereunder. Accordingly, we recommend to the Department of State that it
designate Intelsat as a recognized operating agent!: as requested in its appllcxlon.

- * .

*In Applications of Intelsat LLC for Authority to Operate, and to Further Construct,
Launch and Operate C-Band and Ku-Band Global Satellites.* 15 FCC Red 15.480. (August 5,
2000), the Commission concluded that, after privatization, Intelsat will not be an emit? controlled by foreign
governments and that Section 310(a) of the Communications Act \ould nor apply to it. The Commission further
concluded that approximately 80 per cent of the stock, in the privatized Intelsat would be under the indirect control of
aliens, foreign governments, and/or foreign corporations. Nevertheless, the Commission concluded that the U.S. public
interest would be served by waiving Section 3 10(b)(3). As required b>f Section 63.701, Intelsat has filed a copy of its
articles of incorporation or other document creating it as a legal person.

In conclusion, we request the Department of State to furnish the Commission for its files
a copy of the Department's action on this application.

Sincerely,



George Li

Deputy Chief, Telecommunications Division

cc: Dr. Milenko Stojkovic, Intelsat Global Service Corporation