

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of	)	
	)	
Loral Satellite, Inc.	)	
(Debtor-in-Possession) and	)	File Nos.
Loral SpaceCom Corporation	)	
(Debtor-in-Possession), Assignors	)	
	)	SAT-ASG-20030728-00138
and	)	SAT-ASG-20030728-00139
	)	
Intelsat North America, LLC, Assignee	)	
	)	
Applications for Consent to Assignments of	)	
Space Station Authorizations	)	
	)	

**Order**

**Adopted:** April 16, 2004

**Released:** April 16, 2004

By the Chief, International Bureau:

**INTRODUCTION**

1. In this Order, we decline to grant a Request for Deferral of Notification, filed on April 9, 2004, by Intelsat North America, LLC (Intelsat) in the above captioned proceeding.<sup>1</sup> In its request, Intelsat seeks to defer the customer notification period required under the assignment authorization granted in the *Loral/Intelsat Order*.<sup>2</sup> As explained below, we find that deferral of the customer notification requirement would not serve the public interest.

**II. BACKGROUND**

2. On February 11, 2004, the International Bureau issued the *Loral/Intelsat Order* granting approval, subject to certain conditions, of the assignment of satellite authorizations held by Loral Satellite Inc. (Debtor-in-Possession or DIP) and Loral SpaceCom Corporation (DIP) (collectively, Loral) to Intelsat. Under the authorization granted in the *Loral/Intelsat Order*, the Bureau adopted certain consumer protection provisions intended to minimize any disruption

<sup>1</sup> Intelsat North America LLC, Request for Deferral of Notification, File Nos. SAT-ASG-20030728-00138/00139 (*Request for Deferral of Notification*).

<sup>2</sup> *Loral Satellite, Inc. (Debtor-in-Possession) and Loral SpaceCom Corporation (Debtor-in-Possession), and Intelsat North America, LLC, Applications for Consent to Assignments of Space Station Authorizations and Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended, Authorization and Order*, DA 04-357, File Nos. SAT-ASG-20030728-00138/00139, ISP-PDR-20030925-00024 (Int'l Bur., rel. Feb. 11, 2004).

and/or discontinuance to existing Loral customers' service arising from the assignment transaction. These provisions included the grant of Special Temporary Authority (STA) to Intelsat to allow it to continue providing "additional services" as defined under the ORBIT Act<sup>3</sup> to existing Loral customers for a period of 180 days, but not to add new services or new customers to the existing provision of additional services provided on the Loral satellites.<sup>4</sup> The 180-day STA was intended to allow time for those customers of Loral that used capacity for the provision of additional services to transition to another service provider.<sup>5</sup> To ensure that existing Loral customers were aware of the impact of this transaction on their services after the assignment of licenses from Loral to Intelsat, the Bureau required Intelsat to provide written notification to customers, within 30 days from the date of consummation of the assignment transaction, that capacity for the provision of additional services was provided by Intelsat under a 180-day STA and to state the date on which temporary authority would expire.<sup>6</sup> The Loral/Intelsat assignment transaction was consummated on March 17, 2004; thus, Intelsat must provide the required notification to customers by April 16, 2004.

3. In its *Request for Deferral of Notification*, Intelsat argues that the issues raised on review have created legal uncertainty regarding the duration of Intelsat's authority to provide additional services.<sup>7</sup> Therefore, Intelsat seeks a deferral of the notification requirement until 10 days after the Commission completes its review of the issues and resolves the legal challenges.<sup>8</sup> Intelsat contends that sending a notice to customers as required by the Bureau's decision could result in Intelsat providing inaccurate information to customers, creating customer confusion and potentially causing unwarranted customer action.<sup>9</sup> Such result, Intelsat claims, would not serve

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<sup>3</sup> Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. 106-180, 114 Stat. 48 (2000), as amended, Pub. L. No. 107-233 § 1, 116 Stat. 1480 (2002). The ORBIT Act defines "additional services" for Intelsat as "direct-to-home (DTH) or direct broadcast satellite (DBS) video services, or services in the Ka or V bands." See ORBIT Act, § 681(a)(12)(B).

<sup>4</sup> *Loral/Intelsat Order* at paras. 64-66. The term "additional services" throughout this order refers to the definition provided under the ORBIT Act.

<sup>5</sup> *Loral/Intelsat Order* at paras. 64-66.

<sup>6</sup> See *Loral/Intelsat Order* at paras. 65, 76. In a subsequent order, we clarified and amended the *Loral/Intelsat Order* to require that Intelsat give the required written notice to customers within 30 days of the consummation of the transaction, rather than within 30 days from the release date of the order. See *Loral Satellite, Inc. (Debtor-in-Possession) and Loral SpaceCom Corporation (Debtor-in-Possession), and Intelsat North America, LLC, Applications for Consent to Assignments of Space Station Authorizations and Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Supplemental Order, DA 04-912, File Nos. SAT-ASG-20030728-00138/00139, ISP-PDR-20030925-00024 (Int'l Bur., rel. Feb. 11, 2004) (*Supplemental Order*) at paras. 5, 9.

<sup>7</sup> SES AMERICOM (SES) filed an Application for Review of the *Loral/Intelsat Order* (SES AMERICOM, Inc., Application for Review, File Nos. SAT-ASG-20030728-00138/00139 (filed Mar. 12, 2004)). Intelsat filed an opposition to SES's Application for Review (Intelsat North America LLC, Opposition to Application for Review, File Nos. SAT-ASG-20030728-00138/00139 (filed Mar. 29, 2004)). The substance of these filings, which we do not address in this order, raise a number of issues concerning the Bureau's decision to grant Intelsat a 180-day STA for the provision of additional services.

<sup>8</sup> *Request for Deferral of Notification* at 4.

<sup>9</sup> For instance, Intelsat submits that there are at least three possible outcomes of the Commission's review, and given these various outcomes, requiring Intelsat to notify customers that it is offering service pursuant to a 180-day STA would not serve the public interest. *Request for Deferral of Notification* at 4.

the public interest and would conflict with the Bureau's underlying intent in granting the STA – to ensure continuity of service.<sup>10</sup> Intelsat also claims that providing the required notice would disrupt the customer base and revenues that it intended to acquire from Loral and thus interfere with this commercial transaction.<sup>11</sup> Intelsat contends that a delay of notification will serve the public interest and will enable customers to make fully informed decisions based on complete and accurate information.

### III. DISCUSSION

4. We are not convinced by Intelsat's argument that deferring the notification deadline "until the Commission resolves the legal challenges" would better serve the Bureau's intended purpose of the STA and notice requirements. As provided in the *Loral/Intelsat Order*, the Bureau's underlying intent in granting Intelsat an STA to provide additional services was to ensure continuity of service to end users and to protect against undue risk of loss of service. Significantly, the purpose of the STA was to afford an orderly transition for Loral customers should they desire to seek another service provider that could offer additional services in the time remaining before June 30, 2004, when Intelsat is required to comply with the initial public offering (IPO) requirements of the ORBIT Act. The notification requirement was intended to provide further assurance against disruption and/or discontinuance of service to end-users as it would make customers aware of the limited duration of the 180-day STA and would provide customers adequate time in which to consider alternative service providers.

5. Intelsat's arguments do not persuade us that a deferral of customer notification will better address the underlying concerns that the STA and notice requirements were designed to address. Deferral of notice to customers of the limited authorization under which Intelsat may provide additional services effectively provides no information to customers about the changes that have occurred in the provision of services they now receive from Intelsat as a result of the assignment transaction. A deferral of customer notice does little to ensure that end users will have continuity of service. Disclosure in a timely manner to existing Loral customers that Intelsat is providing additional services under grant of an STA will provide these customers with necessary facts so that they can make informed decisions as to the need to transition to alternative service providers to avoid disruption in service to their customers. The 30-day notification period, which began to run on the date of consummation of the transaction, is a reasonable time period in which to provide disclosure of the requirements imposed as part of the assignment authorization. We find no justification to defer notice of the authorization requirements under which we granted the assignment of licenses to Intelsat. Thus, we reject Intelsat's request to defer the notification requirement.

6. To address Intelsat's concern that customers be fully informed about the current status of the 180-day STA, in addition to the notice requirements set forth in the *Loral/Intelsat Order* and the *Supplemental Order*,<sup>12</sup> Intelsat may include a statement that challenges have been made against the *Loral/Intelsat Order* and that the STA ruling could be subject to change based upon the subsequent review of these challenges. We caution, however, that any statements made

<sup>10</sup> See *Request for Deferral of Notification* at 5-7.

<sup>11</sup> *Request for Deferral of Notification* at 6.

<sup>12</sup> See *Loral/Intelsat Order* at para. 65; *Supplemental Order* at para. 10.

in the notice must set forth the current ruling in the *Loral/Intelsat Order* granting Intelsat a 180-day STA and must indicate that under this ruling, Intelsat's STA will expire on September 13, 2004.

7. We disagree with Intelsat that the imposition of the notice requirement interferes with the commercial transaction intended by Intelsat when it acquired the Loral assets. The Bureau's *Loral/Intelsat Order* was issued on February 11, 2004, and the *Supplemental Order* was issued on March 4, 2004. Thus, Intelsat was fully aware of the 180-day STA and customer notification requirements when it consummated the transaction on March 17, 2004. Indeed, the Bureau's February 11, 2004, decision explicitly acknowledged that Intelsat had the option to delay consummation of the agreement if it wanted to proceed without restrictions on Intelsat's provision of the additional services obtained from Loral.<sup>13</sup>

#### IV. CONCLUSION

8. For these reasons, we deny Intelsat's *Request for Deferral of Notification*. We find that the notification requirement, as specified in the *Loral/Intelsat Order*, will provide customers with necessary information about the regulatory requirements imposed as part of the assignment authorization in the *Loral/Intelsat Order*, and will ensure that customers are aware of the change in the terms of their service. We find that a deferral in notification, as requested by Intelsat, would not serve the public interest.

#### V. ORDERING CLAUSES

9. IT IS ORDERED that the Request for Deferral of Notification filed by Intelsat North America LLC on April 9, 2004, with respect to the customer notification requirements set forth in Order and Authorization, DA 04-357, File Nos. SAT-ASG-20030728-00138/00139, and in Supplemental Order, DA 04-612, File Nos. SAT-ASG-20030728-00138/00139, IS DENIED.

10. IT IS FURTHER ORDERED that the customer notification requirements set forth in Order and Authorization, DA 04-357, File Nos. SAT-ASG-20030728-00138/00139, and in Supplemental Order, DA 04-612, File Nos. SAT-ASG-20030728-00138/00139, remain in effect.

11. This action is taken under delegated authority pursuant to Sections 0.51 and 0.261 of the Commission's Rules, 47 C.F.R. §§ 0.51, 0.261, and SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION



Donald Abelson  
Chief, International Bureau

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<sup>13</sup> *Loral/Intelsat Order* at para. 64.