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

In the Matter of	)	
	)	
Inmarsat Ventures Limited	)	File No. SAT-MSC-20040210-00027
	)	(Report No. SAT-00197)

OPPOSITION OF MOBILE SATELLITE VENTURES SUBSIDIARY LLC

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Summary

In this proceeding, Inmarsat argues that through two separate transactions it has conducted an initial public offering and has substantially diluted its ownership by former signatories in compliance with the requirements of the ORBIT Act. What Inmarsat's letter really reveals is that it still has not complied with two unambiguous requirements of the ORBIT Act. First, rather than conducting a "*public*" equity offering, Inmarsat has conducted a *private* equity offering. Second, rather than listing its "*shares*" on an exchange, Inmarsat has listed its *debt* securities on an exchange. As courts and the Commission have repeatedly recognized, the Commission cannot rewrite a statute and must give effect to the unambiguous intent of Congress as expressed in the statute. Unless and until Congress rewrites the ORBIT Act, the Commission cannot deem Inmarsat to have complied with the essential requirements of the Act.

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Mobile Satellite Ventures Subsidiary LLC ("MSV") hereby files this Opposition to the letter request submitted by Inmarsat Ventures Limited ("Inmarsat"),[1] in which it asserts that it has complied with the requirements of the Open-Market Reorganization for the Betterment of International Telecommunications Act ("ORBIT Act").[2] Inmarsat's letter, however, reveals that it has still failed to comply with two unambiguous and essential requirements of the ORBIT Act from which the Commission cannot permit any deviations. The Commission must accordingly direct Inmarsat to comply with the requirements of the ORBIT Act and make clear that, until it does so, Inmarsat is precluded from providing "additional services," as defined in the Act.

Background

MSV. MSV is the successor to Motient Services Inc. (formerly known as AMSC Subsidiary Corporation), the entity authorized by the Commission in 1989 to construct, launch, and operate a United States mobile satellite service ("MSS") system in the L-band.[3] MSV's

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[1] Letter from Alan Auckenthaler, Vice President and General Counsel, Inmarsat Inc., to Ms. Marlene H. Dortch, FCC, File No. SAT-MSC-20040210-00027 (February 10, 2004) ("*Inmarsat Letter*") and Attachment B ("*Offering Memorandum*").

[2] Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. No. 106-180, § 2, 115 Stat. 48 (2000) ("ORBIT Act").

[3] *Memorandum Opinion, Order and Authorization*, 4 FCC Rcd 6041 (1989); *Final Decision on Remand,* 7 FCC Rcd 266 (1992); *aff'd sub nom. Aeronautical Radio, Inc. v. FCC*, 983 F.2d 275 (D.C. Cir. 1993) ("*Licensing Order*").

licensed satellite (AMSC-1) was launched in 1995, and MSV began offering service in 1996. MSV is also the successor to TMI Communications and Company, Limited Partnership ("TMI") with respect to TMI's provision of L-band MSS in the United States and TMI's L-band mobile earth terminal authorizations granted by the Commission.[4] Today, MSV offers a full range of land, maritime, and aeronautical MSS, including voice and data, throughout the contiguous United States, Alaska, Hawaii, the Virgin Islands, and coastal areas up to 200 miles offshore.

Inmarsat. Inmarsat was established in 1976 as a legal monopoly owned largely by foreign government post, telephone, and telegraph ("PTT") administrations. Taking full advantage of its monopoly position, Inmarsat built a fleet of satellites to provide global service, primarily to large, oceangoing vessels. Inmarsat has since expanded to land mobile and aeronautical services and currently operates nine in-orbit second and third generation satellites in the L-band.[5] Inmarsat is also currently constructing three fourth-generation satellites.[6] As a result of its early monopoly and its ties to foreign governments, Inmarsat has a dominant share of the MSS market. While new entrants such as Iridium, Globalstar, ICO, and TMI have all gone through bankruptcy, Inmarsat in 2002 had gross revenues of $463 million and made $185 million in profits.[7]

ORBIT Act. In March 2000, Congress passed the ORBIT Act, the goal of which is "to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the

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[4] *See Motient Services Inc., TMI Communications and Company, LP, and Mobile Satellite Ventures Subsidiary LLC, Order and Authorization*, 16 FCC Rcd 20469 (Nov. 21, 2001).

[5] *See* Comments of Inmarsat Ventures plc, IB Docket No. 01-185 (Oct. 19, 2001), at 3.

[6] *See* Inmarsat *ex parte*, IB Docket No. 01-185 (Nov. 27, 2002), at 1.

[7] *See* Inmarsat 2002 Annual Report (available at http://www.inmarsatventures.com/Annual%20Reports.html).

intergovernmental satellite organizations, INTELSAT and Inmarsat." ORBIT Act, § 2. In passing the ORBIT Act, Congress recognized that Inmarsat, as a former intergovernmental organization ("IGO"), enjoyed certain competitive advantages over private companies such as MSV. Thus, the ORBIT Act requires the Commission, in considering whether to allow Inmarsat to provide services in the United States, to determine whether Inmarsat has privatized "in a manner that will harm competition in the telecommunications markets of the United States." 47 U.S.C. § 761(b)(1)(A)(ii).

The ORBIT Act provides clearly-defined criteria that Inmarsat is required to meet fully in order for the Commission to determine that Inmarsat has privatized in a manner that will not harm competition. 47 U.S.C. §§ 763, 763c. Central to these criteria is the requirement that Inmarsat conduct an "initial public offering" ("IPO") that "substantially dilute[s] the aggregate ownership of [Inmarsat]" by its former signatories. 47 U.S.C. § 763(2). In addition, the ORBIT Act requires that Inmarsat have "shares" that are "listed for trading on one or more major stock exchanges with transparent and effective securities regulation." 47 U.S.C. § 763(5)(B).

The ORBIT Act originally specified a deadline of October 2000 for Inmarsat's public offering but included a provision allowing the Commission to extend this deadline until December 31, 2001. ORBIT Act, § 621(5)(A)(ii). In October 2000, the Commission granted Inmarsat a six-month extension of its public offering deadline to July 1, 2001.[8] In June 2001, the

[8] *In the Matter of Inmarsat Ventures Ltd, Request for Extension of Time Under Section 621(5) of the ORBIT Act, Memorandum Opinion and Order*, FCC 00-356, 15 FCC Rcd. 19740 (released October 3, 2000).

Commission granted Inmarsat a second extension of its public offering deadline to December 31, 2001, the latest date possible under the ORBIT Act at that time.[9]

Despite Inmarsat's failure to conduct a public offering or to have shares listed on a major stock exchange, the Commission in October 2001 authorized Inmarsat to provide MSS in the United States.[10] These authorizations were conditioned on Inmarsat conducting a public offering that meets the deadline specified in the ORBIT Act and that otherwise meets the requirements of the ORBIT Act. *Inmarsat Entry Order* ¶¶ 110-111.

In November 2001, Congress amended the ORBIT Act to afford Inmarsat a one-year extension of its public offering deadline (until December 31, 2002) and granted the Commission the authority to extend this deadline to no later than June 30, 2003.[11] In December 2002, the International Bureau granted Inmarsat a third extension of its public offering deadline to June 30, 2003.[12] In June 2003, Congress again amended the ORBIT Act to afford Inmarsat a one-year extension of its public offering deadline (until June 30, 2004) and granted the Commission the authority to extend this deadline to no later than December 31, 2004.[13]

Inmarsat's Continued Anticompetitive Behavior. As MSV has explained in the proceeding regarding the Commission's 2003 *Report to Congress* on the ORBIT Act, L-band

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[9] *In the Matter of Inmarsat Ventures Ltd., Request for Extension of Time Under Section 621(5) of the ORBIT Act, Memorandum Opinion and Order*, FCC 01-193, 16 FCC Rcd 13494 (released June 28, 2001).

[10] *Comsat Corporation, Memorandum Opinion, Order and Authorization*, FCC 01-272, 2001 FCC LEXIS 5317 (October 9, 2001) ("*Inmarsat Entry Order*").

[11] Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-77, § 628, 115 Stat. 748, 804 (2001).

[12] *In the Matter of Inmarsat Ventures Ltd., Request for Extension of Time Under Section 621(5) of the ORBIT Act, Memorandum Opinion and Order*, DA 02-3489, 2002 FCC LEXIS 6675 (Int'l Bur., December 19, 2002).

[13] ORBIT Technical Corrections Act of 2003, Pub. L. No. 108-39 (2003).

MSS providers have been hampered in their ability to compete with Inmarsat due to its monopolistic behavior.[14] Throughout its history, Inmarsat has frustrated MSV's efforts to coordinate access to L-band spectrum and, as a result, MSV is still unable to gain access to sufficient spectrum on a stable basis.[15] Moreover, despite an obligation to do so pursuant to the Inmarsat Convention, Inmarsat has denied MSV access to certain intellectual property that would enable MSV to use its facilities to provide a competitive service to Inmarsat customers in North America.[16] Finally, and most recently, MSV has faced continued and unreasonable opposition from Inmarsat to its efforts to develop a more spectrum efficient and valuable satellite service through deployment of ancillary terrestrial facilities in the L-band to provide improved coverage.[17] Thus, Inmarsat still behaves in an anticompetitive manner consistent with its heritage as an IGO. Inmarsat may have "privatized" but it has not privatized in a manner that promotes competition in the telecommunications markets of the United States, which is the goal of the ORBIT Act. To privatize in the pro-competitive manner required by the ORBIT Act, Inmarsat must comply precisely with the Act's requirements for an IPO.

Inmarsat Orbit Act Filing. On February 10, 2004, Inmarsat filed a letter with the Commission arguing that it has now satisfied its remaining ORBIT Act obligations. *See*

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[14] *See* Comments of MSV, SPB-183 (April 17, 2003) ("*MSV ORBIT Act Comments*"); Reply Comments of MSV, SPB-183 (April 24, 2003) ("*MSV ORBIT Act Reply Comments*"); Supplemental Reply Comments of MSV, SPB-183 (May 23, 2003) ("*MSV ORBIT Act Supplemental Reply Comments*").

[15] *MSV ORBIT Act Comments* at 6-8; *MSV ORBIT Act Reply Comments* at 5; *MSV ORBIT Act Supplemental Comments* at 4-5.

[16] *MSV ORBIT Act Comments* at 8-9; *MSV ORBIT Act Supplemental Comments* at 5. Indeed, in its *Offering Memorandum*, Inmarsat bluntly admits the anticompetitive impact of its practices, stating "We believe this relatively large installed base of terminals contributes to stable revenues, particularly in the maritime market, because the cost and time required to switch to a competing system could be substantial." *Offering Memorandum* at 84.

[17] *MSV ORBIT Act Comments* at 9-11; *MSV ORBIT Act Supplemental Comments* at 5-6.

Inmarsat Letter. Regarding the requirement that Inmarsat conduct a "public offering" that "substantially dilutes" its ownership by former signatories, Inmarsat explains that it instead conducted a private equity offering. *Id.* at 2-3. As a result of this private placement, two private equity funds now each hold 26.14 percent of Inmarsat's shares. *Id.* at 2-3. Certain members of Inmarsat management team acquired an additional 4.75 percent of Inmarsat's shares. *Id.* at 3. The remaining 43 percent of Inmarsat's shares are still owned by former signatories. *Id.* Among these former signatories, Telenor Satellite Services AS ("Telenor") (15.10%), COMSAT Investments, Inc. ("COMSAT") (14.10%), and KDDI Corporation ("KDDI") (7.62%) hold the most significant interests. *Id.* n.10. Pursuant to a shareholders agreement, these three signatories have certain rights with respect to the governance of Inmarsat, including the right to appoint half of Inmarsat's non-executive directors. *Offering Memorandum* at 115. Regarding the requirement that Inmarsat have its "shares" listed for trading on a major stock exchange, Inmarsat explains that instead it has listed nonconvertible debt securities on the Luxembourg Stock Exchange. *Id.* at 8-9.

Discussion

I. INMARSAT HAS FAILED TO COMPLY WITH TWO UNAMBIGUOUS REQUIREMENTS OF THE ORBIT ACT FROM WHICH THE COMMISSION CANNOT AUTHORIZE ANY DEVIATIONS

A. Inmarsat Has Not Conducted a "Public Offering"

The ORBIT Act unambiguously requires Inmarsat to conduct a "public offering" that has the effect of substantially diluting its aggregate "ownership" by former signatories. 47 U.S.C. § 763(2). Inmarsat has not complied with this requirement.

First, the ORBIT Act clearly mandates that Inmarsat conduct a *public* offering to achieve substantial dilution. Instead, Inmarsat conducted a *private* offering. A private placement did not result in Inmarsat's equity being as broadly held as would have been the result of a public equity

offering. Moreover, it is questionable whether as a result of a public offering that former signatories Telenor, Comsat, and KDDI would have been given preferential treatment with respect to Inmarsat's governance pursuant to a shareholders agreement.

Second, while Inmarsat has conducted a public offering of *debt*, the ORBIT Act requires that Inmarsat conduct a public offering of *equity*. The ORBIT Act requires Inmarsat's public offering to substantially dilute its "ownership" by former signatories. 47 U.S.C. § 763(2). A public offering of debt does not accomplish this objective because a debt interest is not an ownership interest.[18] A debt offering has no dilutive impact on the ownership of Inmarsat by former signatories.[19]

Inmarsat claims that it was forced to conduct a private rather than a public equity offering because current economic conditions are not supportive of a public equity offering. *Inmarsat Letter* at 7. But this is far from certain. Since October 2000, Congress and the Commission have together granted Inmarsat five separate extensions of its public offering deadline. These extensions were granted solely because of poor economic conditions which arguably precluded

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[18] *Black's Law Dictionary* 1375 (6th ed. 1990) (defining a "debt" as "a sum of money due by certain and express agreement. A specific sum of money owing to one person from another, including not only obligation of debtor to pay but right of creditor to receive and enforce payment"); *The American Heritage Dictionary of the English Language* 468 (4th ed. 2000) (defining "debt" as "Something owed, such as money, goods, or services"); *see also DCR PCS, Inc. Order*, 15 FCC Rcd 5297 (March 13, 2000) ("It is well established that 'the Commission does not consider debt interests in determining compliance with the statutory ownership benchmark.'" (citing *Fox Television Stations, Inc.*, 10 FCC Rcd. 8452, 8483, ¶ 77 (1995) (citing Wilner & Scheiner, 103 FCC2d 511, 519 (1985))).

[19] Inmarsat notes that one section of the ORBIT Act requires it to conduct a public offering of "securities" which it claims can include equity or debt. *Inmarsat Letter* at 8 (citing 47 U.S.C. § 763(5)(A)). Given that one purpose of the public offering requirement is to dilute Inmarsat's "ownership" by former signatories, the Commission cannot reasonably conclude that Congress intended the term "securities" as used in this section to include debt securities. Moreover, there is no ambiguity in Section 621(5)(B) of the ORBIT Act that Inmarsat must have "shares," not debt, listed on an exchange. 47 U.S.C. § 763(5)(B).

Inmarsat at the time from conducting a successful public offering.[20] In today's economy, however, this is no longer a valid excuse for Inmarsat's failure to conduct a public equity offering. Economic conditions in general and the market for public equity offerings in particular have improved dramatically since Inmarsat's public offering deadline was extended by Congress in June 2003. Below are some indications of this trend:

- Of the 84 companies that went public in 2003, 53 did so in the last two quarters of 2003. Moreover, 24 companies went public in December 2003 alone.[21]
- Of those companies that went public, the average stock price has increased by 26%.[22]
- The NASDAQ Composite Index has increased in value by 27.6% since June 2, 2003.[23]
- The S&P 500 has increased in value by 17.6% since June 2, 2003.[24]
- The NASDAQ Telecommunications Index has increased in value by 33% since June 2, 2003.[25]

Inmarsat has been a consistently profitable company throughout its existence and is still the dominant provider of MSS in the world today. Statements in Inmarsat's *Offering*

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[20] For example, the legislative history of the ORBIT Technical Corrections Act of 2003 reveals that Congress extended Inmarsat's public offering deadline to June 30, 2004 solely because economic conditions at the time were arguably less than optimal for a public offering, not because Congress believed the goals of the ORBIT Act were no longer valid. *See, e.g.,* 149 Cong. Rec. H5343 (daily ed. June 12, 2003) (statement of Rep. Shimkus) ("The legislation is necessary because the ORBIT Act—which was enacted in March 2000—did not anticipate the collapse of the IPO markets . . . . I want to emphasize that H.R. 2312 does not reopen the battles over the ORBIT law or challenge its underlying public policy."); 149 Cong. Rec. H5343 (daily ed. June 12, 2003) (statement of Rep. Tauzin) ("Unfortunately, the market conditions have not improved to a point where it would be reasonable to require the IPO.").

[21] "Year-End Review of Markets & Finance 2003: IPO Market Ended Year Better Than It Started," *Wall St. J.*, Jan. 2, 2004, *available in* 2004 WL-WSJ 56916047.

[22] *Id.*

[23] On June 2, 2003, the NASDAQ Composite Index opened at 1612.1. On April 2, 2004, it closed at 2057.17.

[24] On June 2, 2003, the S&P 500 index opened at 971.13. On April 2, 2004, it closed at 1141.81.

[25] On June 2, 2003, the NASDAQ Telecommunications Index opened at 142.51. On April 2, 2004, it closed at 189.62.

Memorandum associated with its debt offering confirm this:

- "We are the leading provider of global mobile satellite communications services." *Offering Memorandum* at 83.

- "We have a significant market share in each of the primary mobile satellite services sectors in which we compete." Inmarsat then states that it is number one in market position in each of the three primary MSS sectors (maritime, land, and aeronautical). *Offering Memorandum* at 83.

- "In the maritime sector, we believe we are the leading provider of global mobile satellite services, with 2002 revenues in excess of 30 times those of our nearest competitor." *Offering Memorandum* at 84.

- "We believe we are also the market leader in the provision of high-speed data services to the maritime and land sectors, with 2002 data revenues of more than 15 times those of our nearest competitor." *Offering Memorandum* at 84.

- "We believe that no competitor is likely to introduce global mobile satellite services at data transmission rates comparable to ours in the short- to medium-term in light of the limited availability of suitable spectrum and the cost and lead-time required to replicate our in-orbit and terrestrial infrastructure." *Offering Memorandum* at 84.

Given its admitted dominance of all segments of the MSS market, Inmarsat should have little difficulty conducting a successful public equity offering in these improved public equity markets.

It should be noted that, with a much less dominant position in the fixed satellite service market than Inmarsat enjoys in the MSS market, Intelsat, like Inmarsat subject to the IPO requirement of the ORBIT Act and, like Inmarsat, the beneficiary of Congressional extensions of that requirement, has now scheduled its IPO for no later than June 30, 2004.[26]

B. Inmarsat Does Not Have "Shares" Listed on an Exchange

The ORBIT Act unambiguously requires Inmarsat to have its "shares" listed for trading on a major stock exchange. 47 U.S.C. § 763(5)(B). Inmarsat has failed to comply with this

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[26] *See* Press Release, "Intelsat Ltd. Announces Planned Initial Public Offering" (February 4, 2004) (available at http://www.intelsat.com/aboutus/press/releases.aspx).

requirement because it will have only debt and not "shares" listed on an exchange. A debt interest is not a "share." Inmarsat admits as much, stating that its debt securities "technically may not be 'shares.'" *Inmarsat Letter* at 9. A "share" represents an ownership interest in a business entity.[27] A debt interest is not an ownership interest. *See supra* note 18. Again, this is crucial because if Inmarsat had shares and not debt traded on an exchange, its ownership interests would available to the public at large, leading to more diffuse ownership.

C. The Commission Cannot Rewrite the ORBIT Act

Courts and the Commission have repeatedly recognized the fundamental concepts of administrative law that an administrative agency cannot rewrite a statute[28] and must give effect to the unambiguous intent of Congress as expressed in the text of a statute.[29] In this case,

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[27] Rev. Model Bus. Corp. Act, § 1.40 (1984) (defining a "share" as "the unit into which proprietary interests in a corporation are divided"); *Black's Law Dictionary* 1375 (6th ed. 1990) (defining a "share" as "a unit of stock representing ownership in a corporation"); *The American Heritage Dictionary of the English Language* 1600 (4th ed. 2000) (defining a "share" as "Any of the equal parts into which the capital stock of a corporation or company is divided").

[28] *See, e.g., Rural Health Care Support Mechanism, Report and Order*, FCC 03-288 (November 17, 2003), ¶ 16 ("The Commission is not authorized to amend the statute to add categories to the definition."); *see also Indiana Michigan Power Co. v. Dept. of Energy*, 88 F.3d 1272, 1276 (D.C. Cir. 1996) (rejecting an agency's interpretation of a statute and noting that the agency's "treatment of this statute is not an interpretation but a rewrite"); *ASARCO Inc. v. EPA*, 578 F.2d 319, 327 (D.C. Cir. 1978) (stating that the "agency has no authority to rewrite the statute in this fashion"); *Association of American Railroads v. Costle*, 562 F.2d 1310, 1320 (D.C. Cir. 1977) ("Congress has not provided the agency with the type of discretion it evidently desires and contends for in this case. We are bound to effectuate the legislative will and we perceive it to be unambiguous in this context. If the EPA desires an element of flexibility in its operations, the agency must look to the Congress and not to the courts."); *Lubrizol Corp. v. EPA*, 562 F.2d 807, 820 (D.C. Cir. 1977) ("But for this Court to countenance what, on the record before us, is essentially an amendment by regulation would constitute an unwarranted judicial intrusion upon the legislative sphere wholly at odds with the democratic processes of lawmaking contemplated by the Constitution."); *March v. USA*, 506 F.2d 1306, 1318 n.56 (D.C. Cir. 1974) ("An administrative agency, like a court, lacks freedom to tailor its interpretation of a statute to its own notions of what is best, and thereby to negate its stated purpose.").

[29] Under Step One of *Chevron*, if Congress has spoken to the precise question at issue, then the unambiguously expressed intent of Congress governs. *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-43 (1984). Only if the statute is silent or

Inmarsat is asking the Commission to ignore the plain meaning of the ORBIT Act. But there is no ambiguity in the text of the ORBIT Act. To dilute its "ownership" by former signatories, Congress required Inmarsat to conduct a "public offering" of equity. 47 U.S.C. § 763(2). Instead, Inmarsat has conducted a private offering of equity and a public offering of debt. Moreover, Congress required Inmarsat to have "shares" listed on a stock exchange. Instead, Inmarsat will have debt listed on a stock exchange. 47 U.S.C. § 763(5)(B). The Commission cannot deem Inmarsat to have complied with these requirements unless it were to ignore the plain meaning of the terms "ownership," "public offering," and "shares." But the Commission does not have this discretion. Congress has "directly spoken" to the public offering of shares requirement and "that is the end of the matter;" the Commission "must give effect to the unambiguously expressed intent of Congress."[30] If Inmarsat wants to be relieved of the requirement for conducting a public offering of its shares, therefore, it needs to direct its arguments to the Congress, not the Commission.

Indeed, even Inmarsat itself has recognized that it will need Congressional approval for its attempt to evade these unambiguous requirements of the ORBIT Act.[31] Unless and until

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ambiguous will a court proceed to Step Two of *Chevron* to determine whether the agency's interpretation is based on a permissible reading of the statute. *Id.* at 843.

[30] *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-43 (1984).

[31] "Inmarsat Shakes up Europe," *Satellite News* (December 15, 2003) (quoting Inmarsat's vice president as stating, "Our challenge will be to convince the Congress and [the Commission] to consider the sale sufficient to comply with the ORBIT Act"); *Satellite Week* (December 15, 2003) (quoting Inmarsat's vice president in reference to the private offering as stating "The challenge will be persuading the FCC or Congress this suffices"); "European Equity Firms Makes Successful Offers for Inmarsat," *Communications Daily* (October 20, 2003) (quoting Inmarsat's CEO in reference to the private offering as stating "we will have to discuss with your legislature and the FCC as to whether this is acceptable. If they are amenable to recognizing we've accomplished the goal of the ORBIT legislation, they will advise us of what is the best way to move forward.").

Congress amends the ORBIT Act, the Commission cannot deem Inmarsat to have complied with its requirements.

Conclusion

For the foregoing reasons, the Commission should find that Inmarsat has not satisfied the requirements of the ORBIT Act. In addition, if Inmarsat has not conducted an IPO of its shares on or before the statutory deadline, the Commission should "limit through conditions or deny" any application to use the Inmarsat system for the provision of "non-core services," and it should "limit or revoke previous authorizations to provide non-core services" via the Inmarsat system.[32] Finally, the Commission should make clear that, until Inmarsat has conducted an IPO in accordance with the requirements of the ORBIT Act, Inmarsat is "precluded" from expanding into "additional services."[33]

Respectfully submitted,

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[32] 47 U.S.C. § 761(b)(1)(B).

[33] 47 U.S.C. § 763(4); *see also* 47 U.S.C. § 761a(a) (stating that until Inmarsat is "privatized in accordance with the requirements of this subchapter, . . . Inmarsat . . . shall not be permitted to provide additional services"). The ORBIT Act defines "additional services" as "non-maritime or non-aeronautical mobile services in the 1.5 and 1.6 GHz band on planned satellites or the 2 GHz band." 47 U.S.C. § 769(a)(12)(A).

CERTIFICATE OF SERVICE

I, Sylvia A. Davis, a secretary with the law firm of Shaw Pittman LLP, hereby certify that on this 5th day of April 2004, served a true copy of the foregoing "Opposition" by first class United States mail, postage prepaid, upon the following:

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