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May 25, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation
File No. SAT-MSC-20040210-00027

Today, Alan Auckenthaler, General Counsel, Inmarsat Ventures Limited ("Inmarsat"), and John Janka of Latham & Watkins met with Paul Margie, Legal Advisor to Commissioner Copps. The attached presentation and Inmarsat's positions of record formed the basis for the discussion.

If you have any questions, please contact me.

Sincerely yours,

John P. Janka

Attachment

cc: Paul Margie

Inmarsat Has Complied with the ORBIT Act

❖ U.S. Interests Are at Stake

➢ U.S. Investment

- Lockheed (through Comsat) owns approximately 14% of Inmarsat
- U.S. investors account for over 40% of the capital in the Apax Partners and Permira funds that control Inmarsat

➢ U.S. Services

- U.S. industry relies on Inmarsat as a competitive MSS alternative
- Federal, state and local government users need continued access to current and next-generation Inmarsat spacecraft
  - Current federal government users include the Department of Defense, U.S. Coast Guard, Department of Homeland Security, and law enforcement agencies
  - The Department of Defense has indicated its interest in and intent to use Inmarsat's next-generation BGAN service
- Next-generation Inmarsat spacecraft will offer a new class of mobile broadband services to consumers in underserved parts of the U.S.

❖ Inmarsat's Initial Public Offering and Signatory Ownership Dilution

➢ Prior to the fall of 2003, Inmarsat had prepared five times for a public equity offering, incurring expenses of over $10 million

- Each time, weak financial markets foiled Inmarsat's efforts

➢ In late 2003, Inmarsat faced:

- a continued weak equity market with no sure prospect for improvement
- former Signatories seeking to divest their ownership interests
- a takeover proposal it was obligated to consider under the UK Takeover Code

➢ The Board determined that the proposal made by Apax Partners and Permira was in the best interests of the company and its owners

- former Signatory ownership would be diluted by more than 50%
- positive control and majority ownership interests would be acquired by funds controlled by new, non-Signatory entities
- management would obtain a vested interest in the company through its own ownership interest
- Inmarsat would become a public company, subject to national securities regulation through the issuance of publicly traded debt securities

- The takeover was structured as a leveraged buy out, reliant on money to be raised through the issuance of public debt securities
  - the takeover and resulting dilution would not have occurred but for the subsequently planned initial public offering of debt
  - "Series A" debt securities were sold and listed for trading on the Luxembourg Stock Exchange
  - after completion of a forthcoming SEC registration, the Series A securities will be exchanged for "Series B" securities, which will be freely and publicly tradeable in the U.S.

❖ **Inmarsat Has Satisfied the Purposes of ORBIT Act**

- Through an initial public offering, Inmarsat has substantially diluted the aggregate ownership interests of former Signatories
  - As a result of its initial public offering, 57% of the ownership of Inmarsat resides with non-Signatory, non-governmental entities
    - This is over ***two times*** the level of dilution recognized as "substantial" in the *New Skies* decision
    - 70 of 85 former Signatories have fully redeemed their ownership interest in the company
    - 3 former Signatories hold a residual interest of only one share
    - Foreign government ownership has been substantially reduced
    - Only 12 of 85 former Signatories hold an interest similar to what they held before
  - Inmarsat has financed this dilution through an initial public offering
    - Inmarsat has conducted an IPO in Luxembourg of Series A debt securities
    - The expert U.S. agency on securities matters recognizes Inmarsat's forthcoming A/B exchange as an "initial public offering" in the U.S.
      - The A/B exchange of debt securities to be registered at the SEC is an *Exxon Capital* transaction that the SEC deems an initial public offering
  - The initial public offering of debt and the buyout of the equity ownership interests of the former Signatories are part of the same transaction and cannot be examined independently
- Inmarsat has securities listed for trading on a major stock exchange with transparent and effective securities regulation
  - The listing of debt securities on the Luxembourg Stock Exchange has subjected Inmarsat to the transparent and effective security regulations of both that exchange and the European Union
  - Inmarsat soon will subject to regulation by the U.S. Securities and Exchange Commission as well

- **Inmarsat Has Complied with the Initial Public Offering Requirement of the ORBIT Act**
  - The plain language of the Act provides for a *public offering of securities*, which allows an offering of either debt or equity securities
    - This general language amends the Satellite Act of 1962 (the predecessor of the ORBIT Act), where Congress specifically required Comsat to issue *voting stock* to the *American* public
  - As an initial step to funding the buyout of Signatories, Inmarsat conducted a public offering of debt securities in Luxembourg
  - Next, Inmarsat is effectuating an *Exxon Capital* A/B exchange of debt securities in a U.S. "initial public offering" as recognized by the U.S. Securities and Exchange Commission
- **Inmarsat's Listing of Debt Securities Is "Consistent With" the ORBIT Act**
  - Inmarsat is subject to the transparent and effective securities regulations of Luxembourg and the EU, as a result of the public offering of debt securities in Europe
  - Inmarsat will be subject to U.S. federal securities regulations at the conclusion of the A/B exchange public offering
  - The ORBIT Act provides the Commission with flexibility to find Inmarsat's listing of debt "consistent with" the Act
    - Congress granted the Commission this discretion so that the purpose of the Act would not be frustrated by an overly technical application of the statute
      - The goal of the Act is to promote a fully competitive global market for satellite communications services by fully privatizing Inmarsat
      - The Administration and two key Senators have recognized that Inmarsat has satisfied the purpose of the ORBIT Act
    - Exercise of this discretion is warranted here
      - The overarching goal of the ORBIT Act has been met
      - No stated purpose of the Act would be advanced by requiring a separate listing of some type of Inmarsat equity securities
        - The level of U.S. federal securities regulation or securities regulation in Luxembourg or the EU would not be any more effective
        - No greater dilution would occur
        - Control over the company would not change
        - No increase in competition in the satellite communications services market would result