



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 05-88

Released: January 14, 2005

Intelsat, Ltd. Files Petition for Declaratory Ruling and Certification Pursuant to Section 621(5)(F) of the Open-Market Reorganization for the Betterment of International Telecommunications Act, as amended (the "ORBIT Act")

**PLEADING CYCLE ESTABLISHED
IB Docket No. 05-18**

Comments Due: February 14, 2005
Replies Due: March 1, 2005

On December 23, 2004, Intelsat, Ltd. ("Intelsat") filed with the Commission, a Petition for Declaratory Ruling and attached certification,¹ along with a supplemental submission on January 14, 2005,² pursuant to Section 621(5)(F) of the Open-Market Reorganization for the Betterment of International Telecommunications Act, as amended (the "ORBIT Act").³ In its Petition for Declaratory Ruling, Intelsat seeks a Commission ruling that, upon consummation of the transaction with Zeus Holdings Limited ("Zeus"), as approved by the Federal Communications Commission ("FCC") on December 22, 2004 (DA 04-4034),⁴ Intelsat will be in compliance with the requirement under Section

¹ See Petition for Declaratory Ruling that Intelsat, Ltd. Complies With Section 621(5)(F) of the ORBIT Act and Certification of Intelsat, Ltd., filed by Conny L. Kullman, Chief Executive Officer of Intelsat, Ltd., with the Secretary, Federal Communications Commission, dated December 23, 2004, File No. SAT-PDR-20041228-00231 (*Intelsat Petition for Declaratory Ruling*).

² Intelsat replaced the Certification appended to its *Petition for Declaratory Ruling* with a new Certification which references the Commission's December 22, 2004 action on the transfer application filed by Intelsat and Zeus Holdings Limited, noted in note 4 *infra*. See Intelsat, Ltd. Supplemental Submission, Petition for Declaratory Ruling that Intelsat, Ltd. Complies With Section 621(5)(F) of the ORBIT Act, File No. SAT-PDR-20041228-00231, filed with the Secretary, Federal Communications Commission, dated January 14, 2004 (*Intelsat Certification*).

³ See Title VI of the Communications Satellite Act of 1962, as amended, 47 U.S.C. §§ 701 *et seq.*, which was added by the Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. Law 106-180, 114 Stat. 48 (2000), most recently amended by Pub. Law 108-371, 118 Stat. 1752 (2004) (herein, "ORBIT Act"). The ORBIT Act was passed by Congress in 2000 to "promote a fully competitive global market for satellite communications services ... by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat." ORBIT Act, § 2. An amendment to the ORBIT Act was signed into law on October 25, 2004, providing an alternative method by which INTELSAT could comply with the privatization requirements of Section 621(5) by adding new subsections (F) and (G). See ORBIT Act, §§ 621(5)(F), 621(5)(G).

⁴ On December 22, 2004, the International Bureau (Bureau) released an order in IB Docket No. 04-366, authorizing, subject to certain conditions, the transfer of control of Intelsat's Title II and Title III licenses to Zeus. See Intelsat, Ltd., Transferor, and Zeus Holdings Limited, Transferee, Consolidated Application for Consent to Transfer Control

621(5)(F) of the ORBIT Act.⁵

In its Certification, Intelsat certifies, that upon consummation of Intelsat's transaction with Zeus Holdings Limited ("the Zeus Transaction"), which the FCC approved by Order dated December 22, 2004 (DA 04-4034): Intelsat will achieve substantial dilution of the aggregate amount of former signatory financial interest in Intelsat;⁶ any signatories or former signatories that retain a financial interest in Intelsat will not possess, together or individually, effective control of Intelsat;⁷ and no intergovernmental organization will have any ownership interest in a successor entity of Intelsat.⁸

The ORBIT Act requires that Intelsat provide financial and other information to the Commission, as the Commission may require, to verify its Certification.⁹ In its Petition for Declaratory Ruling, Intelsat states that it has provided the information requisite for verification of its certification pursuant to Section 621(5)(F)(ii) and maintains that any financial or other information necessary to verify its certification is a matter of record before the Commission in the *Zeus/Intelsat* proceeding, IB Docket No. 04-366.¹⁰ Intelsat states that in the course of that proceeding, it provided information to the Commission in specific filings, including: (1) Intelsat/Zeus' Consolidated Transfer of Control Application, filed on September 4, 2004; (2) an Erratum filed on September 10, 2004; and (3) Letters providing additional ownership information, that can be used to conclusively verify Intelsat's ORBIT Act Certification.¹¹ We will incorporate the full record in IB Docket No. 04-366, including the filings specified by Intelsat and Zeus in its Petition for Declaratory Ruling, into the record of this proceeding. These filings are available by accessing the Commission's Electronic Comment Filing System (ECFS) in IB Docket No. 04-366 and will be included as part of the record in this proceeding.

Under the ORBIT Act, the Commission must determine, after notice and comment, whether Intelsat is in compliance with the certification requirements under Section 621(5)(F).¹² Accordingly, we initiate this proceeding to solicit comment on Intelsat's Petition for Declaratory Ruling and Certification. Interested parties may file comments no later than February 14, 2005. Replies to such comments must be

of Holders of Title II and Title III Authorizations and Petition for Declaratory Ruling under Sections 310 of the Communications Act of 1934, as amended, *Order and Authorization*, DA 04-4034 (Int'l Bur. rel. Dec. 22, 2004) (*Zeus/Intelsat Order and Authorization*). Under the terms of the *Zeus/Intelsat Order and Authorization*, Zeus and Intelsat must complete the transaction by February 22, 2005, sixty days after the release date of the order. See *Zeus/Intelsat Order and Authorization* at para. 51. See also, Section 25.119(f) of the Commission's rules, 47 C.F.R. § 25.119(f).

⁵ See *Intelsat Petition for Declaratory Ruling* at 2. See also, ORBIT Act, §§ 621(5)(F)(i)(I),(II) and (III).

⁶ See ORBIT Act, § 621(5)(F)(i)(I). Under this provision, Intelsat must certify that it has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in successor entities of INTELSAT. The term "substantial dilution" is defined under the amended ORBIT Act to mean that a majority of the financial interests in Intelsat are no longer held or controlled, directly or indirectly, by signatories or former signatories. See ORBIT Act, § 621(5)(G).

⁷ See ORBIT Act, § 621(5)(F)(i)(II).

⁸ See ORBIT Act, § 621(5)(F)(i)(III).

⁹ ORBIT Act, §§ 621(5)(F)(ii).

¹⁰ See *Intelsat Petition for Declaratory Ruling* at 4-5. Intelsat incorporates by reference the filings submitted with respect to its Consolidated Application for Consent to Transfer Control of Title II and Title III Authorizations from Intelsat to Zeus.

¹¹ *Intelsat Petition for Declaratory Ruling* at 4-5.

¹² ORBIT Act, §§ 621(5)(F)(iii).

filed no later than March 1, 2005. All filings concerning matters referenced in this Public Notice should refer to IB Docket No. 05-18.

Under the Commission's current procedures for the submission of filings and other documents,¹³ submissions in this matter may be filed electronically (*i.e.*, through ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**¹⁴ comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at fcc@bcpiweb.com or (202) 488-5563 (facsimile); (2) JoAnn Lucanik, Satellite Division, International Bureau, at JoAnn.Lucanik@fcc.gov, or (202) 418-0748 (facsimile); (3) Marilyn Simon, Satellite Division, International Bureau, at Marilyn.Simon@fcc.gov, or (202) 418-0748 (facsimile); (4) Louise Klees-Wallace, Satellite Division, International Bureau, at Louise.Klees-Wallace@fcc.gov, or (202) 418-0748 (facsimile); (5) Neil Dellar, Office of General Counsel, at Neil.Dellar@fcc.gov, or (202) 418-1234 (facsimile).

Copies of the applications and any subsequently-filed documents in this matter may be obtained from Best Copy and Printing, Inc., in person at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at

¹³ See Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); see also FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001); Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media, *Public Notice*, 18 FCC Rcd 16705 (2003).

¹⁴ See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd 11322 (1998).

fcc@bcpiweb.com. The applications and any associated documents are also available for public inspection and copying during normal reference room hours at the following Commission office: FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. The applications are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov>. Alternate formats of this public notice (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or send an e-mail to access@fcc.gov.

For further information, contact JoAnn Lucanik, Satellite Division, International Bureau, at (202) 418-0719 or Louise Klees-Wallace, Satellite Division, International Bureau, at (202) 418-1321.

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