

Exhibit A

PETITION FOR WAIVER OF SECTIONS 25.137 AND 25.114

Pursuant to Section 25.137 of the Federal Communications Commission's ("Commission" or "FCC") rules, earth station applicants "requesting authority to operate with a non-U.S. licensed space station *to serve the United States*" must demonstrate that effective competitive opportunities exist and must provide the same technical information required by Section 25.114 for U.S.-licensed space stations.¹ Intelsat License LLC ("Intelsat") herein seeks authority to provide telemetry, tracking and control ("TT&C") services -- not commercial services -- to the United States, and thus believes that Section 25.137 does not apply.

To the extent the Commission determines, however, that Intelsat's request for authority to provide TT&C services on a special temporary basis is a request to serve the United States with a non U.S.-licensed satellite, Intelsat respectfully requests a waiver of Sections 25.137 and 25.114 of the Commission's rules.² The Commission may grant a waiver for good cause shown.³ The Commission typically grants a waiver where the particular facts make strict compliance inconsistent with the public interest.⁴ In granting a waiver, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁵ Waiver is therefore appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

Good cause also exists to waive Section 25.137. Section 25.137 is designed to ensure that "U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services" in other countries. Here, Intelsat 603 will not be providing commercial service to U.S. customers. Rather a U.S. antenna is providing temporary TT&C services to the satellite. Thus, the purpose of the information required by Section 25.137 is not implicated here. For example, Section 25.137(d) requires earth station applicants requesting authority to operate with a non-U.S.-licensed space station that is not in orbit and operating to post a bond.⁶ The underlying purpose in having to post a bond—*i.e.*, to prevent warehousing of orbital locations by operators seeking to serve the United States—would not be served by requiring Intelsat to post a bond in order to provide approximately three months of TT&C services to the Intelsat 603 satellite.

Intelsat 603 is licensed by Argentina, which is a WTO-member country. In 2000, the Commission granted a similar request for an Argentine-licensed satellite to access

¹ 47 C.F.R. § 25.137 (emphasis added).

² 47 C.F.R. §§ 25.137 and 25.114.

³ 47 C.F.R. §1.3.

⁴ *N.E. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

⁵ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁶ *See* 47 C.F.R. §25.137(d)(4).

earth stations in the United States.⁷ The Commission's decision stated that approval would "enhance competition" for satellite services and referenced the 1998 bilateral Agreement between the United States and Argentina to facilitate the provision of satellite services between the two nations.⁸ At its final location of 80.6° W.L., Intelsat 603 will only be utilized for services to Argentina and will not serve the United States. Thus, the purposes of Section 25.137—to ensure that U.S. satellite operators enjoy "effective competitive opportunities" to serve foreign markets and to prevent warehousing of orbital locations serving the United States—will not be undermined by grant of this waiver request.

Finally, Intelsat notes that it expects to operate with the Intelsat 603 satellite using its U.S. earth station for a period of approximately three months. Requiring Intelsat to provide copious technical and legal information, where there is no risk of harmful interference and the operations will cease after approximately three months, would pose hardship without serving underlying policy objectives. Given these particular facts, the waiver sought herein is plainly appropriate.

⁷ See *Williams Communications, Inc.*, 15 FCC Rcd 5836, 5836 (2000).

⁸ See *id.* at 5839. See also Agreement Between the Government of the United States of America and the Government of the Argentine Republic Concerning the Provision of Satellite Signals and the Transmission and Reception of Signals to and from Satellites For the Provision of Satellite Services to Users in the United States of America and the Argentine Republic, U.S.-Arg., June 5, 1998, Temp. 9 DEP'T ST. DISPATCH 23. The purpose of the Agreement was to "facilitate the provision of services to, from and within the United States and Argentina via commercial satellites...and to establish the conditions relating to the use in both countries of satellites licensed by the United States or Argentina." See *id.* at Article 2. See also International Bureau Announces Conclusion of U.S.-Argentina Framework Agreement and Protocol for Direct-to-Home Satellite Services and Fixed-Satellite Services, 13 FCC Rcd 16581 (1998).