

Union Calendar No. 285

105TH CONGRESS
2^D SESSION

H. R. 1872

[Report No. 105-494]

A BILL

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

APRIL 27, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1997

Mr. BLILEY (for himself and Mr. MARKEY) introduced the following bill;
which was referred to the Committee on Commerce

APRIL 27, 1998

Additional sponsors: Mr. KLUG, Mr. DEUTSCH, Mr. UPTON, Mr. BURR of North Carolina, Mr. GANSKE, Mr. SHAYS, Mr. WHITE, Ms. ESHOO, Mr. CANADY of Florida, Mr. GILLMOR, Mr. PAXON, Mr. COX of California, Mr. ADAM SMITH of Washington, Mr. FOLEY, Mr. DAVIS of Florida, Mr. LARGENT, Mr. NORWOOD, Ms. MCCARTHY of Missouri, Mr. DEAL of Georgia, Mr. ENGEL, Mr. HASTINGS of Washington, Mr. GREENWOOD, Mr. STRICKLAND, Mr. DAVIS of Virginia, Mr. PALLONE, Mr. LINDER, Mr. DICKS, Mr. GREEN, Mr. RUSH, Mr. HASTERT, Mr. STEARNS, Mr. METCALF, Mr. LAZIO of New York, Mr. BILBRAY, Mr. CRAPO, Mr. MANTON, Mr. SHIMKUS, Mr. PICKERING, Mr. MCINTOSH, Mrs. THURMAN, Ms. DELAURO, Mr. MCDERMOTT, Mr. LATOURETTE, Mr. FRELINGHUYSEN, Mr. COBURN, Mr. SANFORD, Ms. DUNN, Mrs. CUBIN, Mr. BILLIRAKIS, Mr. WHITFIELD, Mr. PASTOR, and Mr. NEAL of Massachusetts

APRIL 27, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 12, 1997]

A BILL

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Communications Sat-*
5 *ellite Competition and Privatization Act of 1998”.*

6 **SEC. 2. PURPOSE.**

7 *It is the purpose of this Act to promote a fully competi-*
8 *tive global market for satellite communication services for*
9 *the benefit of consumers and providers of satellite services*
10 *and equipment by fully privatizing the intergovernmental*
11 *satellite organizations, INTELSAT and Inmarsat.*

12 **SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF**

13 **1962.**

14 *The Communications Satellite Act of 1962 (47 U.S.C.*
15 *101) is amended by adding at the end the following new*
16 *title:*

1 **“TITLE VI—COMMUNICATIONS**
2 **COMPETITION AND PRIVAT-**
3 **IZATION**

4 **“Subtitle A—Actions To Ensure**
5 **Procompetitive Privatization**

6 **“SEC. 601. FEDERAL COMMUNICATIONS COMMISSION LI-**
7 **CENSING.**

8 *“(a) LICENSING FOR SEPARATED ENTITIES.—*

9 *“(1) COMPETITION TEST.—The Commission may*
10 *not issue a license or construction permit to any sep-*
11 *arated entity, or renew or permit the assignment or*
12 *use of any such license or permit, or authorize the use*
13 *by any entity subject to United States jurisdiction of*
14 *any space segment owned, leased, or operated by any*
15 *separated entity, unless the Commission determines*
16 *that such issuance, renewal, assignment, or use will*
17 *not harm competition in the telecommunications*
18 *market of the United States. If the Commission does*
19 *not make such a determination, it shall deny or re-*
20 *voke authority to use space segment owned, leased, or*
21 *operated by the separated entity to provide services to,*
22 *from, or within the United States.*

23 *“(2) CRITERIA FOR COMPETITION TEST.—In*
24 *making the determination required by paragraph (1),*
25 *the Commission shall use the licensing criteria in sec-*

1 *tions 621 and 623, and shall not make such a deter-*
2 *mination unless the Commission determines that the*
3 *privatization of any separated entity is consistent*
4 *with such criteria.*

5 *“(b) LICENSING FOR INTELSAT, INMARSAT, AND*
6 *SUCCESSOR ENTITIES.—*

7 *“(1) COMPETITION TEST.—The Commission shall*
8 *substantially limit, deny, or revoke the authority for*
9 *any entity subject to United States jurisdiction to use*
10 *space segment owned, leased, or operated by*
11 *INTELSAT or Inmarsat or any successor entities to*
12 *provide non-core services to, from, or within the*
13 *United States, unless the Commission determines—*

14 *“(A) after January 1, 2002, in the case of*
15 *INTELSAT and its successor entities, that*
16 *INTELSAT and any successor entities have been*
17 *privatized in a manner that will not harm com-*
18 *petition in the telecommunications markets of*
19 *the United States; or*

20 *“(B) after January 1, 2001, in the case of*
21 *Inmarsat and its successor entities, that*
22 *Inmarsat and any successor entities have been*
23 *privatized in a manner that will not harm com-*
24 *petition in the telecommunications markets of*
25 *the United States.*

1 “(2) *CRITERIA FOR COMPETITION TEST.*—In
2 *making the determination required by paragraph (1),*
3 *the Commission shall use the licensing criteria in sec-*
4 *tions 621, 622, and 624, and shall not make such a*
5 *determination unless the Commission determines that*
6 *such privatization is consistent with such criteria.*

7 “(3) *CLARIFICATION: COMPETITIVE SAFE-*
8 *GUARDS.*—In making its licensing decisions under
9 *this subsection, the Commission shall consider whether*
10 *users of non-core services provided by INTELSAT or*
11 *Inmarsat or successor or separated entities are able to*
12 *obtain non-core services from providers offering serv-*
13 *ices other than through INTELSAT or Inmarsat or*
14 *successor or separated entities, at competitive rates,*
15 *terms, or conditions. Such consideration shall also in-*
16 *clude whether such licensing decisions would require*
17 *users to replace equipment at substantial costs prior*
18 *to the termination of its design life. In making its li-*
19 *censing decisions, the Commission shall also consider*
20 *whether competitive alternatives in individual mar-*
21 *kets do not exist because they have been foreclosed due*
22 *to anticompetitive actions undertaken by or resulting*
23 *from the INTELSAT or Inmarsat systems. Such li-*
24 *censing decisions shall be made in a manner which*

1 *facilitates achieving the purposes and goals in this*
2 *title and shall be subject to notice and comment.*

3 “(c) *ADDITIONAL CONSIDERATIONS IN DETERMINA-*
4 *TIONS.—In making its determinations and licensing deci-*
5 *sions under subsections (a) and (b), the Commission shall*
6 *take into consideration the United States obligations and*
7 *commitments for satellite services under the Fourth Protocol*
8 *to the General Agreement on Trade in Services.*

9 “(d) *INDEPENDENT FACILITIES COMPETITION.—Noth-*
10 *ing in this section shall be construed as precluding COM-*
11 *SAT from investing in or owning satellites or other facili-*
12 *ties independent from INTELSAT and Inmarsat, and suc-*
13 *cessor or separated entities, or from providing services*
14 *through reselling capacity over the facilities of satellite sys-*
15 *tems independent from INTELSAT and Inmarsat, and suc-*
16 *cessor or separated entities. This subsection shall not be con-*
17 *strued as restricting the types of contracts which can be exe-*
18 *cuted or services which may be provided by COMSAT over*
19 *the independent satellites or facilities described in this sub-*
20 *section.*

21 **“SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.**

22 “(a) *REQUIRED ACTIONS.—Unless, in a proceeding*
23 *under section 601(b), the Commission determines that*
24 *INTELSAT or Inmarsat have been privatized in a manner*
25 *that will not harm competition, then—*

1 “(1) the President shall oppose, and the Commis-
2 sion shall not assist, any registration for new orbital
3 locations for INTELSAT or Inmarsat—

4 “(A) with respect to INTELSAT, after Jan-
5 uary 1, 2002, and

6 “(B) with respect to Inmarsat, after Janu-
7 ary 1, 2001, and

8 “(2) the President and Commission shall, con-
9 sistent with the deadlines in paragraph (1), take all
10 other necessary measures to preclude procurement,
11 registration, development, or use of new satellites
12 which would provide non-core services.

13 “(b) EXCEPTION.—

14 “(1) REPLACEMENT AND PREVIOUSLY CON-
15 TRACTED SATELLITES.—Subsection (a) shall not
16 apply to—

17 “(A) orbital locations for replacement sat-
18 ellites (as described in section 622(2)(B)), and

19 “(B) orbital locations for satellites that are
20 contracted for as of March 25, 1998, if such sat-
21 ellites do not provide additional services.

22 “(2) LIMITATION ON EXCEPTION.—Paragraph
23 (1) is available only with respect to satellites designed
24 to provide services solely in the C and Ku, for
25 INTELSAT, and L, for Inmarsat, bands.

1 **“SEC. 603. ADDITIONAL SERVICES AUTHORIZED.**

2 “(a) *SERVICES AUTHORIZED DURING CONTINUED*
3 *PROGRESS.*—

4 “(1) *CONTINUED AUTHORIZATION.*—*The Com-*
5 *mission may issue an authorization, license, or per-*
6 *mit to, or renew the license or permit of, any provider*
7 *of services using INTELSAT or Inmarsat space seg-*
8 *ment, or authorize the use of such space segment, for*
9 *additional services (including additional applications*
10 *of existing services) or additional areas of business,*
11 *subject to the requirements of this section.*

12 “(2) *ADDITIONAL SERVICES PERMITTED UNDER*
13 *NEW CONTRACTS UNLESS PROGRESS FAILS.*—*If the*
14 *Commission makes a finding under subsection (b)*
15 *that conditions required by such subsection have not*
16 *been attained, the Commission may not, pursuant to*
17 *paragraph (1), permit such additional services to be*
18 *provided directly or indirectly under new contracts*
19 *for the use of INTELSAT or Inmarsat space segment,*
20 *unless and until the Commission subsequently makes*
21 *a finding under such subsection that such conditions*
22 *have been attained.*

23 “(3) *PREVENTION OF EVASION.*—*The Commis-*
24 *sion shall, by rule, prescribe means reasonably de-*
25 *signed to prevent evasions of the limitations con-*
26 *tained in paragraph (2) by customers who did not*

1 *use specific additional services as of the date of the*
2 *Commission's most recent finding under subsection*
3 *(b) that the conditions of such subsection have not*
4 *been obtained.*

5 *“(b) REQUIREMENTS FOR ANNUAL FINDINGS.—*

6 *“(1) GENERAL REQUIREMENTS.—The findings*
7 *required under this subsection shall be made, after no-*
8 *tice and comment, on or before January 1 of 1999,*
9 *2000, 2001, and 2002. The Commission shall find*
10 *that the conditions required by this subsection have*
11 *been attained only if the Commission finds that—*

12 *“(A) substantial and material progress has*
13 *been made during the preceding period at a rate*
14 *and manner that is probable to result in achiev-*
15 *ing pro-competitive privatizations in accordance*
16 *with the requirements of this title; and*

17 *“(B) neither INTELSAT nor Inmarsat are*
18 *hindering competitors' or potential competitors'*
19 *access to the satellite services marketplace.*

20 *“(2) FIRST FINDING.—In making the finding re-*
21 *quired to be made on or before January 1, 1999, the*
22 *Commission shall not find that the conditions re-*
23 *quired by this subsection have been attained unless*
24 *the Commission finds that—*

1 “(A) COMSAT has submitted to the
2 INTELSAT Board of Governors a resolution
3 calling for the pro-competitive privatization of
4 INTELSAT in accordance with the requirements
5 of this title; and

6 “(B) the United States has submitted such
7 resolution at the first INTELSAT Assembly of
8 Parties meeting that takes place after such date
9 of enactment.

10 “(3) SECOND FINDING.—In making the finding
11 required to be made on or before January 1, 2000, the
12 Commission shall not find that the conditions re-
13 quired by this subsection have been attained unless
14 the INTELSAT Assembly of Parties has created a
15 working party to consider and make recommenda-
16 tions for the pro-competitive privatization of
17 INTELSAT consistent with such resolution.

18 “(4) THIRD FINDING.—In making the finding re-
19 quired to be made on or before January 1, 2001, the
20 Commission shall not find that the conditions re-
21 quired by this subsection have been attained unless
22 the INTELSAT Assembly of Parties has approved a
23 recommendation for the pro-competitive privatization
24 of INTELSAT in accordance with the requirements of
25 this title.

1 “(5) *FOURTH FINDING.—In making the finding*
2 *required to be made on or before January 1, 2002, the*
3 *Commission shall not find that the conditions re-*
4 *quired by this subsection have been attained unless*
5 *the pro-competitive privatization of INTELSAT in*
6 *accordance with the requirements of this title has been*
7 *achieved by such date.*

8 “(6) *CRITERIA FOR EVALUATION OF HINDERING*
9 *ACCESS.—The Commission shall not make a deter-*
10 *mination under paragraph (1)(B) unless the Commis-*
11 *sion determines that INTELSAT and Inmarsat are*
12 *not in any way impairing, delaying, or denying ac-*
13 *cess to national markets or orbital locations.*

14 “(c) *EXCEPTION FOR SERVICES UNDER EXISTING*
15 *CONTRACTS IF PROGRESS NOT MADE.—This section shall*
16 *not preclude INTELSAT or Inmarsat or any signatory*
17 *thereof from continuing to provide additional services under*
18 *an agreement with any third party entered into prior to*
19 *any finding under subsection (b) that the conditions of such*
20 *subsection have not been attained.*

1 **“Subtitle B—Federal Communica-**
 2 **tions Commission Licensing Cri-**
 3 **teria: Privatization Criteria**

4 **“SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETI-**
 5 **TIVE PRIVATIZATION OF INTELSAT AND**
 6 **INMARSAT.**

7 *“The President and the Commission shall secure a pro-*
 8 *competitive privatization of INTELSAT and Inmarsat that*
 9 *meets the criteria set forth in this section and sections 622*
 10 *through 624. In securing such privatizations, the following*
 11 *criteria shall be applied as licensing criteria for purposes*
 12 *of subtitle A:*

13 *“(1) DATES FOR PRIVATIZATION.—Privatization*
 14 *shall be obtained in accordance with the criteria of*
 15 *this title of—*

16 *“(A) INTELSAT as soon as practicable, but*
 17 *no later than January 1, 2002, and*

18 *“(B) Inmarsat as soon as practicable, but*
 19 *no later than January 1, 2001.*

20 *“(2) INDEPENDENCE.—The successor entities and*
 21 *separated entities of INTELSAT and Inmarsat re-*
 22 *sulting from the privatization obtained pursuant to*
 23 *paragraph (1) shall—*

24 *“(A) be entities that are national corpora-*
 25 *tions; and*

1 “(B) have ownership and management that
2 is independent of—

3 “(i) any signatories or former signato-
4 ries that control access to national tele-
5 communications markets; and

6 “(ii) any intergovernmental organiza-
7 tion remaining after the privatization.

8 “(3) *TERMINATION OF PRIVILEGES AND IMMUNI-*
9 *TIES.—The preferential treatment of INTELSAT and*
10 *Inmarsat shall not be extended to any successor entity*
11 *or separated entity of INTELSAT or Inmarsat. Such*
12 *preferential treatment includes—*

13 “(A) privileged or immune treatment by
14 national governments;

15 “(B) privileges or immunities or other com-
16 petitive advantages of the type accorded
17 INTELSAT and Inmarsat and their signatories
18 through the terms and operation of the
19 INTELSAT Agreement and the associated Head-
20 quarters Agreement and the Inmarsat Conven-
21 tion; and

22 “(C) preferential access to orbital locations,
23 including any access to orbital locations that is
24 not subject to the legal or regulatory processes of
25 a national government that applies due diligence

1 *requirements intended to prevent the*
2 *warehousing of orbital locations.*

3 “(4) *PREVENTION OF EXPANSION DURING TRAN-*
4 *SITION.—During the transition period prior to full*
5 *privatization, INTELSAT and Inmarsat shall be pre-*
6 *cluded from expanding into additional services (in-*
7 *cluding additional applications of existing services)*
8 *or additional areas of business.*

9 “(5) *CONVERSION TO STOCK CORPORATIONS.—*
10 *Any successor entity or separated entity created out*
11 *of INTELSAT or Inmarsat shall be a national cor-*
12 *poration established through the execution of an ini-*
13 *tial public offering as follows:*

14 “(A) *Any successor entities and separated*
15 *entities shall be incorporated as private corpora-*
16 *tions subject to the laws of the nation in which*
17 *incorporated.*

18 “(B) *An initial public offering of securities*
19 *of any successor entity or separated entity shall*
20 *be conducted no later than—*

21 “(i) *January 1, 2001, for the successor*
22 *entities of INTELSAT; and*

23 “(ii) *January 1, 2000, for the successor*
24 *entities of Inmarsat.*

1 “(C) *The shares of any successor entities*
2 *and separated entities shall be listed for trading*
3 *on one or more major stock exchanges with*
4 *transparent and effective securities regulation.*

5 “(D) *A majority of the board of directors of*
6 *any successor entity or separated entity shall not*
7 *be subject to selection or appointment by, or oth-*
8 *erwise serve as representatives of—*

9 “(i) *any signatory or former signatory*
10 *that controls access to national tele-*
11 *communications markets; or*

12 “(ii) *any intergovernmental organiza-*
13 *tion remaining after the privatization.*

14 “(E) *Any transactions or other relation-*
15 *ships between or among any successor entity,*
16 *separated entity, INTELSAT, or Inmarsat shall*
17 *be conducted on an arm’s length basis.*

18 “(6) *REGULATORY TREATMENT.—Any successor*
19 *entity or separated entity shall apply through the ap-*
20 *propriate national licensing authorities for inter-*
21 *national frequency assignments and associated orbital*
22 *registrations for all satellites.*

23 “(7) *COMPETITION POLICIES IN DOMICILIARY*
24 *COUNTRY.—Any successor entity or separated entity*

1 *shall be incorporated and headquartered in a nation*
2 *or nations that—*

3 *“(A) have effective laws and regulations*
4 *that secure competition in telecommunications*
5 *services;*

6 *“(B) are signatories of the World Trade Or-*
7 *ganization Basic Telecommunications Services*
8 *Agreement; and*

9 *“(C) have a schedule of commitments in*
10 *such Agreement that includes non-discriminatory*
11 *market access to their satellite markets.*

12 *“(8) RETURN OF UNUSED ORBITAL LOCA-*
13 *TIONS.—INTELSAT, Inmarsat, and any successor*
14 *entities and separated entities shall not be permitted*
15 *to warehouse any orbital location that—*

16 *“(A) as of March 25, 1998, did not contain*
17 *a satellite that was providing commercial serv-*
18 *ices, or, subsequent to such date, ceased to con-*
19 *tain a satellite providing commercial services; or*

20 *“(B) as of March 25, 1998, was not des-*
21 *ignated in INTELSAT or Inmarsat operational*
22 *plans for satellites for which construction con-*
23 *tracts had been executed.*

24 *Any such orbital location of INTELSAT or Inmarsat*
25 *and of any successor entities and separated entities*

1 *shall be returned to the International Telecommuni-*
2 *cation Union for reallocation.*

3 “(9) *APPRAISAL OF ASSETS.*—*Before any trans-*
4 *fer of assets by INTELSAT or Inmarsat to any suc-*
5 *cessor entity or separated entity, such assets shall be*
6 *independently audited for purposes of appraisal, at*
7 *both book and fair market value.*

8 “(10) *LIMITATION ON INVESTMENT.*—*Notwith-*
9 *standing the provisions of this title, COMSAT shall*
10 *not be authorized by the Commission to invest in a*
11 *satellite known as K-TV, unless Congress authorizes*
12 *such investment.*

13 **“SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.**

14 *“In securing the privatizations required by section*
15 *621, the following additional criteria with respect to*
16 *INTELSAT privatization shall be applied as licensing cri-*
17 *teria for purposes of subtitle A:*

18 “(1) *NUMBER OF COMPETITORS.*—*The number of*
19 *competitors in the markets served by INTELSAT, in-*
20 *cluding the number of competitors created out of*
21 *INTELSAT, shall be sufficient to create a fully com-*
22 *petitive market.*

23 “(2) *PREVENTION OF EXPANSION DURING TRAN-*
24 *SITION.*—

1 “(A) *IN GENERAL.*—*Pending privatization*
2 *in accordance with the criteria in this title,*
3 *INTELSAT shall not expand by receiving addi-*
4 *tional orbital locations, placing new satellites in*
5 *existing locations, or procuring new or addi-*
6 *tional satellites except as permitted by subpara-*
7 *graph (B), and the United States shall oppose*
8 *such expansion—*

9 “(i) *in INTELSAT, including at the*
10 *Assembly of Parties,*

11 “(ii) *in the International Tele-*
12 *communication Union,*

13 “(iii) *through United States instruc-*
14 *tions to COMSAT,*

15 “(iv) *in the Commission, through de-*
16 *clining to facilitate the registration of addi-*
17 *tional orbital locations or the provision of*
18 *additional services (including additional*
19 *applications of existing services) or addi-*
20 *tional areas of business; and*

21 “(v) *in other appropriate fora.*

22 “(B) *EXCEPTION FOR CERTAIN REPLACE-*
23 *MENT SATELLITES.*—*The limitations in subpara-*
24 *graph (A) shall not apply to any replacement*
25 *satellites if—*

1 “(i) such replacement satellite is used
2 solely to provide public-switched network
3 voice telephony or occasional-use television
4 services, or both;

5 “(ii) such replacement satellite is pro-
6 cured pursuant to a construction contract
7 that was executed on or before March 25,
8 1998; and

9 “(iii) construction of such replacement
10 satellite commences on or before the final
11 date for INTELSAT privatization set forth
12 in section 621(1)(A).

13 “(3) *TECHNICAL COORDINATION AMONG SIGNATO-*
14 *RIES.—Technical coordination shall not be used to*
15 *impair competition or competitors, and coordination*
16 *under Article XIV(d) of the INTELSAT Agreement*
17 *shall be eliminated.*

18 **“SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED**
19 **ENTITIES.**

20 *“In securing the privatizations required by section*
21 *621, the following additional criteria with respect to any*
22 *INTELSAT separated entity shall be applied as licensing*
23 *criteria for purposes of subtitle A:*

24 “(1) *DATE FOR PUBLIC OFFERING.—Within one*
25 *year after any decision to create any separated en-*

1 *tity, a public offering of the securities of such entity*
2 *shall be conducted.*

3 “(2) *PRIVILEGES AND IMMUNITIES.*—*The privi-*
4 *leges and immunities of INTELSAT and its signato-*
5 *ries shall be waived with respect to any transactions*
6 *with any separated entity, and any limitations on*
7 *private causes of action that would otherwise gen-*
8 *erally be permitted against any separated entity shall*
9 *be eliminated.*

10 “(3) *INTERLOCKING DIRECTORATES OR EMPLOY-*
11 *EES.*—*None of the officers, directors, or employees of*
12 *any separated entity shall be individuals who are of-*
13 *ficers, directors, or employees of INTELSAT.*

14 “(4) *SPECTRUM ASSIGNMENTS.*—*After the initial*
15 *transfer which may accompany the creation of a sep-*
16 *arated entity, the portions of the electromagnetic spec-*
17 *trum assigned as of the date of enactment of this title*
18 *to INTELSAT shall not be transferred between*
19 *INTELSAT and any separated entity.*

20 “(5) *REAFFILIATION PROHIBITED.*—*Any merger*
21 *or ownership or management ties or exclusive ar-*
22 *rangements between a privatized INTELSAT or any*
23 *successor entity and any separated entity shall be*
24 *prohibited until 15 years after the completion of*
25 *INTELSAT privatization under this title.*

1 **“SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.**

2 *“In securing the privatizations required by section*
3 *621, the following additional criteria with respect to*
4 *Inmarsat privatization shall be applied as licensing cri-*
5 *teria for purposes of subtitle A:*

6 *“(1) MULTIPLE SIGNATORIES AND DIRECT AC-*
7 *CESS.—Multiple signatories and direct access to*
8 *Inmarsat shall be permitted.*

9 *“(2) PREVENTION OF EXPANSION DURING TRAN-*
10 *SITION.—Pending privatization in accordance with*
11 *the criteria in this title, Inmarsat should not expand*
12 *by receiving additional orbital locations, placing new*
13 *satellites in existing locations, or procuring new or*
14 *additional satellites, except for specified replacement*
15 *satellites for which construction contracts have been*
16 *executed as of March 25, 1998, and the United States*
17 *shall oppose such expansion—*

18 *“(A) in Inmarsat, including at the Council*
19 *and Assembly of Parties,*

20 *“(B) in the International Telecommuni-*
21 *cation Union,*

22 *“(C) through United States instructions to*
23 *COMSAT,*

24 *“(D) in the Commission, through declining*
25 *to facilitate the registration of additional orbital*
26 *locations or the provision of additional services*

1 *(including additional applications of existing*
2 *services) or additional areas of business, and*

3 *“(E) in other appropriate fora.*

4 *This paragraph shall not be construed as limiting the*
5 *maintenance, assistance or improvement of the*
6 *GMDSS.*

7 *“(3) NUMBER OF COMPETITORS.—The number of*
8 *competitors in the markets served by Inmarsat, in-*
9 *cluding the number of competitors created out of*
10 *Inmarsat, shall be sufficient to create a fully competi-*
11 *tive market.*

12 *“(4) REAFFILIATION PROHIBITED.—Any merger*
13 *or ownership or management ties or exclusive ar-*
14 *rangements between Inmarsat or any successor entity*
15 *or separated entity and ICO shall be prohibited until*
16 *15 years after the completion of Inmarsat privatiza-*
17 *tion under this title.*

18 *“(5) INTERLOCKING DIRECTORATES OR EMPLOY-*
19 *EES.—None of the officers, directors, or employees of*
20 *Inmarsat or any successor entity or separated entity*
21 *shall be individuals who are officers, directors, or em-*
22 *ployees of ICO.*

23 *“(6) SPECTRUM ASSIGNMENTS.—The portions of*
24 *the electromagnetic spectrum assigned as of the date*
25 *of enactment of this title to Inmarsat—*

1 *pose barriers to market access for private sat-*
2 *ellite systems; and*

3 “(B) a list of Member countries of
4 *INTELSAT and Inmarsat that are not Members*
5 *of the World Trade Organization and that are*
6 *not supporting pro-competitive privatization of*
7 *INTELSAT and Inmarsat.*

8 “(2) *CONSULTATION.—The Secretary’s deter-*
9 *minations under paragraph (1) shall be made in con-*
10 *sultation with the Federal Communications Commis-*
11 *sion, the Secretary of State, and the United States*
12 *Trade Representative, and shall take into account the*
13 *totality of a country’s actions in all relevant fora, in-*
14 *cluding the Assemblies of Parties of INTELSAT and*
15 *Inmarsat.*

16 “(b) *IMPOSITION OF COST-BASED SETTLEMENT*
17 *RATE.—Notwithstanding—*

18 “(1) *any higher settlement rate that an overseas*
19 *carrier charges any United States carrier to originate*
20 *or terminate international message telephone services,*
21 *and*

22 “(2) *any transition period that would otherwise*
23 *apply,*

24 *the Commission may by rule prohibit United States car-*
25 *riers from paying an amount in excess of a cost-based settle-*

1 *ment rate to overseas carriers in countries listed by the*
 2 *Commission pursuant to subsection (a).*

3 “(c) *SETTLEMENTS POLICY.*—*The Commission shall,*
 4 *in exercising its authority to establish settlements rates for*
 5 *United States international common carriers, seek to ad-*
 6 *vance United States policy in favor of cost-based settlements*
 7 *in all relevant fora on international telecommunications*
 8 *policy, including in meetings with parties and signatories*
 9 *of INTELSAT and Inmarsat.*

10 **“Subtitle C—Deregulation and**
 11 **Other Statutory Changes**

12 **“SEC. 641. DIRECT ACCESS; TREATMENT OF COMSAT AS**
 13 **NONDOMINANT CARRIER.**

14 *“The Commission shall take such actions as may be*
 15 *necessary—*

16 “(1) *to permit providers or users of tele-*
 17 *communications services to obtain direct access to*
 18 *INTELSAT telecommunications services—*

19 “(A) *through purchases of space segment ca-*
 20 *capacity from INTELSAT as of January 1, 2000,*
 21 *if the Commission determines that—*

22 “(i) *INTELSAT has adopted a usage*
 23 *charge mechanism that ensures fair com-*
 24 *ensation to INTELSAT signatories for*
 25 *support costs that such signatories would*

1 *not otherwise be able to avoid under a di-*
2 *rect access regime, such as insurance, ad-*
3 *ministrative, and other operations and*
4 *maintenance expenditures;*

5 “(ii) *the Commission’s regulations en-*
6 *sure that no foreign signatory, nor any af-*
7 *filiate thereof, shall be permitted to order*
8 *space segment directly from INTELSAT in*
9 *order to provide any service subject to the*
10 *Commission’s jurisdiction;*

11 “(iii) *the Commission has in place a*
12 *means to ensure that carriers will be re-*
13 *quired to pass through to end-users savings*
14 *that result from the exercise of such author-*
15 *ity;*

16 “(B) *through investment in INTELSAT as*
17 *of January 1, 2002, if the Commission deter-*
18 *mines that such investment will be attained*
19 *under procedures that assure fair compensation*
20 *to INTELSAT signatories for the market value*
21 *of their investments;*

22 “(2) *to permit providers or users of tele-*
23 *communications services to obtain direct access to*
24 *Inmarsat telecommunications services—*

1 “(A) through purchases of space segment ca-
2 pacity from Inmarsat as of January 1, 2000, if
3 the Commission determines that—

4 “(i) Inmarsat has adopted a usage
5 charge mechanism that ensures fair com-
6 pensation to Inmarsat signatories for sup-
7 port costs that such signatories would not
8 otherwise be able to avoid under a direct ac-
9 cess regime, such as insurance, administra-
10 tive, and other operations and maintenance
11 expenditures;

12 “(ii) the Commission’s regulations en-
13 sure that no foreign signatory, nor any af-
14 filiate thereof, shall be permitted to order
15 space segment directly from Inmarsat in
16 order to provide any service subject to the
17 Commission’s jurisdiction;

18 “(iii) the Commission has in place a
19 means to ensure that carriers will be re-
20 quired to pass through to end-users savings
21 that result from the exercise of such author-
22 ity; and

23 “(B) through investment in Inmarsat as of
24 January 1, 2001, if the Commission determines
25 that such investment will be attained under pro-

1 *cedures that assure fair compensation to*
2 *Inmarsat signatories for the market value of*
3 *their investments;*

4 “(3) *to act on COMSAT’s petition to be treated*
5 *as a nondominant carrier for the purposes of the*
6 *Commission’s regulations according to the provisions*
7 *of section 10 of the Communications Act of 1934 (47*
8 *U.S.C. 160); and*

9 “(4) *to eliminate any regulation on the avail-*
10 *ability of direct access to INTELSAT or Inmarsat or*
11 *to any successor entities after a pro-competitive pri-*
12 *vatization is achieved consistent with sections 621,*
13 *622 and 624.*

14 **“SEC. 642. TERMINATION OF MONOPOLY STATUS.**

15 “(a) *RENEGOTIATION OF MONOPOLY CONTRACTS PER-*
16 *MITTED.—The Commission shall, beginning January 1,*
17 *2000, permit users or providers of telecommunications serv-*
18 *ices that previously entered into contracts or are under a*
19 *tariff commitment with COMSAT to have an opportunity,*
20 *at their discretion, for a reasonable period of time, to re-*
21 *negotiate those contracts or commitments on rates, terms,*
22 *and conditions or other provisions, notwithstanding any*
23 *term or volume commitments or early termination charges*
24 *in any such contracts with COMSAT.*

1 “(b) *COMMISSION AUTHORITY TO ORDER RENEGOTI-*
2 *ATION.*—*Nothing in this title shall be construed to limit the*
3 *authority of the Commission to permit users or providers*
4 *of telecommunications services that previously entered into*
5 *contracts or are under a tariff commitment with COMSAT*
6 *to have an opportunity, at their discretion, to renegotiate*
7 *those contracts or commitments on rates, terms, and condi-*
8 *tions or other provisions, notwithstanding any term or vol-*
9 *ume commitments or early termination charges in any such*
10 *contracts with COMSAT.*

11 “(c) *PROVISIONS CONTRARY TO PUBLIC POLICY*
12 *VOID.*—*Whenever the Commission permits users or provid-*
13 *ers of telecommunications services to renegotiate contracts*
14 *or commitments as described in this section, the Commis-*
15 *sion may provide that any provision of any contract with*
16 *COMSAT that restricts the ability of such users or provid-*
17 *ers to modify the existing contracts or enter into new con-*
18 *tracts with any other space segment provider (including but*
19 *not limited to any term or volume commitments or early*
20 *termination charges) or places such users or providers at*
21 *a disadvantage in comparison to other users or providers*
22 *that entered into contracts with COMSAT or other space*
23 *segment providers shall be null, void, and unenforceable.*

24 “**SEC. 643. SIGNATORY ROLE.**

25 “(a) *LIMITATIONS ON SIGNATORIES.*—

1 “(1) *NATIONAL SECURITY LIMITATIONS.*—*The*
2 *Federal Communications Commission, after a public*
3 *interest determination, in consultation with the Exec-*
4 *utive Branch, may restrict foreign ownership of a*
5 *United States signatory if the Commission determines*
6 *that not to do so would constitute a threat to national*
7 *security.*

8 “(2) *NO SIGNATORIES REQUIRED.*—*The United*
9 *States Government shall not require signatories to*
10 *represent the United States in INTELSAT or*
11 *Inmarsat or in any successor entities after a pro-com-*
12 *petitive privatization is achieved consistent with sec-*
13 *tions 621, 622 and 624.*

14 “(b) *CLARIFICATION OF PRIVILEGES AND IMMUNITIES*
15 *OF COMSAT.*—

16 “(1) *GENERALLY NOT IMMUNIZED.*—*Notwith-*
17 *standing any other law or executive agreement, COM-*
18 *SAT shall not be entitled to any privileges or immu-*
19 *nities under the laws of the United States or any*
20 *State on the basis of its status as a signatory of*
21 *INTELSAT or Inmarsat.*

22 “(2) *LIMITED IMMUNITY.*—*COMSAT and any*
23 *other company functioning as United States signa-*
24 *tory to INTELSAT or Inmarsat shall not be liable for*
25 *action taken by it in carrying out the specific, writ-*

1 *ten instruction of the United States issued in connec-*
2 *tion with its relationships and activities with foreign*
3 *governments, international entities, and the intergov-*
4 *ernmental satellite organizations.*

5 *“(3) PROVISIONS PROSPECTIVE.—Paragraph (1)*
6 *shall not apply with respect to liability for any ac-*
7 *tion taken by COMSAT before the date of enactment*
8 *of the Communications Satellite Competition and*
9 *Privatization Act of 1998.*

10 *“(c) PARITY OF TREATMENT.—Notwithstanding any*
11 *other law or executive agreement, the Commission shall have*
12 *the authority to impose similar regulatory fees on the*
13 *United States signatory which it imposes on other entities*
14 *providing similar services.*

15 **“SEC. 644. ELIMINATION OF PROCUREMENT PREFERENCES.**

16 *“Nothing in this title or the Communications Act of*
17 *1934 shall be construed to authorize or require any pref-*
18 *erence, in Federal Government procurement of tele-*
19 *communications services, for the satellite space segment pro-*
20 *vided by INTELSAT, Inmarsat, or any successor entity or*
21 *separated entity.*

22 **“SEC. 645. USE OF ITU TECHNICAL COORDINATION.**

23 *“The Commission and United States satellite compa-*
24 *nies shall utilize the International Telecommunication*
25 *Union procedures for technical coordination with*

1 *INTELSAT and its successor entities and separated enti-*
2 *ties, rather than INTELSAT procedures.*

3 **“SEC. 646. TERMINATION OF COMMUNICATIONS SATELLITE**
4 **ACT OF 1962 PROVISIONS.**

5 *“Effective on the dates specified, the following provi-*
6 *sions of this Act shall cease to be effective:*

7 *“(1) Date of enactment of this title: Sections 101*
8 *and 102; paragraphs (1), (5) and (6) of section*
9 *201(a); section 301; section 303; section 502; and*
10 *paragraphs (2) and (4) of section 504(a).*

11 *“(2) On the effective date of the Commission’s*
12 *order that establishes direct access to INTELSAT*
13 *space segment: Paragraphs (1), (3) through (5), and*
14 *(8) through (10) of section 201(c); and section 304.*

15 *“(3) On the effective date of the Commission’s*
16 *order that establishes direct access to Inmarsat space*
17 *segment: Subsections (a) through (d) of section 503.*

18 *“(4) On the effective date of a Commission order*
19 *determining under section 601(b)(2) that Inmarsat*
20 *privatization is consistent with criteria in sections*
21 *621 and 624: Section 504(b).*

22 *“(5) On the effective date of a Commission order*
23 *determining under section 601(b)(2) that INTELSAT*
24 *privatization is consistent with criteria in sections*
25 *621 and 622: Paragraphs (2) and (4) of section*

1 201(a); section 201(c)(2); subsection (a) of section
2 403; and section 404.

3 **“SEC. 647. REPORTS TO THE CONGRESS.**

4 “(a) *ANNUAL REPORTS.*—*The President and the Com-*
5 *mission shall report to the Congress within 90 calendar*
6 *days of the enactment of this title, and not less than annu-*
7 *ally thereafter, on the progress made to achieve the objectives*
8 *and carry out the purposes and provisions of this title. Such*
9 *reports shall be made available immediately to the public.*

10 “(b) *CONTENTS OF REPORTS.*—*The reports submitted*
11 *pursuant to subsection (a) shall include the following:*

12 “(1) *Progress with respect to each objective since*
13 *the most recent preceding report.*

14 “(2) *Views of the Parties with respect to privat-*
15 *ization.*

16 “(3) *Views of industry and consumers on privat-*
17 *ization.*

18 **“SEC. 648. CONSULTATION WITH CONGRESS.**

19 “*The President’s designees and the Commission shall*
20 *consult with the Committee on Commerce of the House of*
21 *Representatives and the Committee on Commerce, Science,*
22 *and Transportation of the Senate prior to each meeting of*
23 *the INTELSAT or Inmarsat Assembly of Parties, the*
24 *INTELSAT Board of Governors, the Inmarsat Council, or*
25 *appropriate working group meetings.*

1 **“SEC. 649. SATELLITE AUCTIONS.**

2 *“Notwithstanding any other provision of law, the*
3 *Commission shall not have the authority to assign by com-*
4 *petitive bidding orbital locations or spectrum used for the*
5 *provision of international or global satellite communica-*
6 *tions services. The President shall oppose in the Inter-*
7 *national Telecommunication Union and in other bilateral*
8 *and multilateral fora any assignment by competitive bid-*
9 *ding of orbital locations or spectrum used for the provision*
10 *of such services.*

11 **“Subtitle D—Negotiations To**
12 **Pursue Privatization**

13 **“SEC. 661. METHODS TO PURSUE PRIVATIZATION.**

14 *“The President shall secure the pro-competitive*
15 *privatizations required by this title in a manner that meets*
16 *the criteria in subtitle B.*

17 **“Subtitle E—Definitions**

18 **“SEC. 681. DEFINITIONS.**

19 *“(a) IN GENERAL.—As used in this title:*

20 *“(1) INTELSAT.—The term ‘INTELSAT’*
21 *means the International Telecommunications Satellite*
22 *Organization established pursuant to the Agreement*
23 *Relating to the International Telecommunications*
24 *Satellite Organization (INTELSAT).*

25 *“(2) INMARSAT.—The term ‘Inmarsat’ means the*
26 *International Mobile Satellite Organization estab-*

1 *lished pursuant to the Convention on the Inter-*
2 *national Maritime Organization.*

3 “(3) *SIGNATORIES.*—*The term ‘signatories’—*

4 “(A) *in the case of INTELSAT, or*
5 *INTELSAT successors or separated entities,*
6 *means a Party, or the telecommunications entity*
7 *designated by a Party, that has signed the Oper-*
8 *ating Agreement and for which such Agreement*
9 *has entered into force or to which such Agree-*
10 *ment has been provisionally applied; and*

11 “(B) *in the case of Inmarsat, or Inmarsat*
12 *successors or separated entities, means either a*
13 *Party to, or an entity that has been designated*
14 *by a Party to sign, the Operating Agreement.*

15 “(4) *PARTY.*—*The term ‘Party’—*

16 “(A) *in the case of INTELSAT, means a*
17 *nation for which the INTELSAT agreement has*
18 *entered into force or been provisionally applied;*
19 *and*

20 “(B) *in the case of Inmarsat, means a na-*
21 *tion for which the Inmarsat convention has en-*
22 *tered into force.*

23 “(5) *COMMISSION.*—*The term ‘Commission’*
24 *means the Federal Communications Commission.*

1 “(6) *INTERNATIONAL TELECOMMUNICATION*
2 *UNION.*—*The term ‘International Telecommunication*
3 *Union’ means the intergovernmental organization*
4 *that is a specialized agency of the United Nations in*
5 *which member countries cooperate for the development*
6 *of telecommunications, including adoption of inter-*
7 *national regulations governing terrestrial and space*
8 *uses of the frequency spectrum as well as use of the*
9 *geostationary satellite orbit.*

10 “(7) *SUCCESSOR ENTITY.*—*The term ‘successor*
11 *entity’—*

12 “(A) *means any privatized entity created*
13 *from the privatization of INTELSAT or*
14 *Inmarsat or from the assets of INTELSAT or*
15 *Inmarsat; but*

16 “(B) *does not include any entity that is a*
17 *separated entity.*

18 “(8) *SEPARATED ENTITY.*—*The term ‘separated*
19 *entity’ means a privatized entity to whom a portion*
20 *of the assets owned by INTELSAT or Inmarsat are*
21 *transferred prior to full privatization of INTELSAT*
22 *or Inmarsat, including in particular the entity whose*
23 *structure was under discussion by INTELSAT as of*
24 *March 25, 1998, but excluding ICO.*

1 “(9) *ORBITAL LOCATION*.—The term ‘orbital lo-
2 cation’ means the location for placement of a satellite
3 on the geostationary orbital arc as defined in the
4 *International Telecommunication Union Radio Regu-*
5 *lations*.

6 “(10) *SPACE SEGMENT*.—The term ‘space seg-
7 ment’ means the satellites, and the tracking, telem-
8 etry, command, control, monitoring and related fa-
9 cilities and equipment used to support the operation
10 of satellites owned or leased by *INTELSAT*,
11 *Inmarsat*, or a separated entity or successor entity.

12 “(11) *NON-CORE*.—The term ‘non-core services’
13 means, with respect to *INTELSAT* provision, services
14 other than public-switched network voice telephony
15 and occasional-use television, and with respect to
16 *Inmarsat* provision, services other than global mari-
17 time distress and safety services or other existing
18 maritime or aeronautical services for which there are
19 not alternative providers.

20 “(12) *ADDITIONAL SERVICES*.—The term ‘addi-
21 tional services’ means Internet services, high-speed
22 data, interactive services, non-maritime or non-aero-
23 nautical mobile services, *Direct to Home (DTH)* or
24 *Direct Broadcast Satellite (DBS)* video services, or
25 *Ka-band* services.

1 “(13) *INTELSAT AGREEMENT*.—The term
2 ‘*INTELSAT Agreement*’ means the *Agreement Relat-*
3 *ing to the International Telecommunications Satellite*
4 *Organization (‘INTELSAT’)*, including all its an-
5 *nexes (TIAS 7532, 23 UST 3813)*.

6 “(14) *HEADQUARTERS AGREEMENT*.—The term
7 ‘*Headquarters Agreement*’ means the *International*
8 *Telecommunication Satellite Organization Head-*
9 *quarters Agreement (November 24, 1976) (TIAS 8542,*
10 *28 UST 2248)*.

11 “(15) *OPERATING AGREEMENT*.—The term ‘*Op-*
12 *erating Agreement*’ means—

13 “(A) *in the case of INTELSAT, the agree-*
14 *ment, including its annex but excluding all titles*
15 *of articles, opened for signature at Washington*
16 *on August 20, 1971, by Governments or tele-*
17 *communications entities designated by Govern-*
18 *ments in accordance with the provisions of the*
19 *Agreement, and*

20 “(B) *in the case of Inmarsat, the Operating*
21 *Agreement on the International Maritime Sat-*
22 *ellite Organization, including its annexes.*

23 “(16) *INMARSAT CONVENTION*.—The term
24 ‘*Inmarsat Convention*’ means the *Convention on the*

1 *International Maritime Satellite Organization*
2 *(Inmarsat) (TIAS 9605, 31 UST 1).*

3 “(17) *NATIONAL CORPORATION.*—*The term ‘na-*
4 *tional corporation’ means a corporation the owner-*
5 *ship of which is held through publicly traded securi-*
6 *ties, and that is incorporated under, and subject to,*
7 *the laws of a national, state, or territorial govern-*
8 *ment.*

9 “(18) *COMSAT.*—*The term ‘COMSAT’ means*
10 *the corporation established pursuant to title III of the*
11 *Communications Satellite Act of 1962 (47 U.S.C. 731*
12 *et seq.)*

13 “(19) *ICO.*—*The term ‘ICO’ means the company*
14 *known, as of the date of enactment of this title, as*
15 *ICO Global Communications, Inc.*

16 “(20) *REPLACEMENT SATELLITES.*—*The term*
17 *‘replacement satellite’ means a satellite that replaces*
18 *a satellite that fails prior to the end of the duration*
19 *of contracts for services provided over such satellite*
20 *and that takes the place of a satellite designated for*
21 *the provision of public-switched network and occa-*
22 *sional-use television services under contracts executed*
23 *prior to March 25, 1998 (but not including K-TV or*
24 *similar satellites). A satellite is only considered a re-*

1 *placement satellite to the extent such contracts are*
2 *equal to or less than the design life of the satellite.*

3 “(21) *GMDSS*.—*The term ‘global maritime dis-*
4 *tress and safety services’ or ‘GMDSS’ means the auto-*
5 *mated ship-to-shore distress alerting system which*
6 *uses satellite and advanced terrestrial systems for*
7 *international distress communications and promoting*
8 *maritime safety in general. The GMDSS permits the*
9 *worldwide alerting of vessels, coordinated search and*
10 *rescue operations, and dissemination of maritime*
11 *safety information.*

12 “(b) *COMMON TERMINOLOGY*.—*Except as otherwise*
13 *provided in subsection (a), terms used in this title that are*
14 *defined in section 3 of the Communications Act of 1934*
15 *have the meanings provided in such section.”.*