

106TH CONGRESS
1ST SESSION

S. 376

AN ACT

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 “Open-market Reorga-
5 nization for the Betterment of International Tele-
6 communications Act”.

1 **SEC. 2. PURPOSE.**

2 It is the purpose of this Act to promote a fully com-
3 petitive domestic and international market for satellite
4 communications services for the benefit of consumers and
5 providers of satellite services by fully encouraging the pri-
6 vatization of the intergovernmental satellite organizations,
7 INTELSAT and Inmarsat, and reforming the regulatory
8 framework of the COMSAT Corporation.

9 **SEC. 3. FINDINGS.**

10 The Congress finds that:

11 (1) International satellite communications serv-
12 ices constitute a critical component of global voice,
13 video and data services, play a vital role in the inte-
14 gration of all nations into the global economy and
15 contribute toward the ability of developing countries
16 to achieve sustainable development.

17 (2) The United States played a pivotal role in
18 stimulating the development of international satellite
19 communications services by enactment of the Com-
20 munications Satellite Act of 1962 (47 U.S.C. 701–
21 744), and by its critical contributions, through its
22 signatory, the COMSAT Corporation, in the estab-
23 lishment of INTELSAT, which has successfully es-
24 tablished global satellite networks to provide member
25 countries with worldwide access to telecommuni-

1 cations services, including critical lifeline services to
2 the developing world.

3 (3) The United States played a pivotal role in
4 stimulating the development of international satellite
5 communications services by enactment of the Inter-
6 national Maritime Satellite Telecommunications Act
7 (47 U.S.C. 751–757), and by its critical contribu-
8 tions, through its signatory, COMSAT, in the estab-
9 lishment of Inmarsat, which enabled member coun-
10 tries to provide mobile satellite services such as
11 international maritime and global maritime distress
12 and safety services to include other satellite services,
13 such as land mobile and aeronautical communica-
14 tions services.

15 (4) By statute, COMSAT, a publicly traded cor-
16 poration, is the sole United States signatory to
17 INTELSAT and, as such, is responsible for carrying
18 out United States commitments under the
19 INTELSAT Agreement and the INTELSAT Oper-
20 ating Agreement. Pursuant to a binding Head-
21 quarters Agreement, the United States, as a party
22 to INTELSAT, has satisfied many of its obligations
23 under the INTELSAT Agreement.

24 (5) In the 37 years since enactment of the
25 Communications Satellite Act of 1962, satellite tech-

1 nology has advanced dramatically, large-scale financ-
2 ing options have improved immensely and inter-
3 national telecommunications policies have shifted
4 from those of natural monopolies to those based on
5 market forces, resulting in multiple private commer-
6 cial companies around the world providing, or pre-
7 paring to provide, the domestic, regional, and global
8 satellite telecommunications services that only
9 INTELSAT and Inmarsat had previously had the
10 capabilities to offer.

11 (6) Private commercial satellite communications
12 systems now offer the latest telecommunications
13 services to more and more countries of the world
14 with declining costs, making satellite communica-
15 tions an attractive complement as well as an alter-
16 native to terrestrial communications systems, par-
17 ticularly in lesser developed countries.

18 (7) To enable consumers to realize optimum
19 benefits from international satellite communications
20 services, and to enable these systems to be competi-
21 tive with other international telecommunication sys-
22 tems, such as fiber optic cable, the global trade and
23 regulatory environment must support vigorous and
24 robust competition.

1 (8) In particular, all satellite systems should
2 have unimpeded access to the markets that they are
3 capable of serving, and the ability to compete in a
4 fair and meaningful way within those markets.

5 (9) Transforming INTELSAT and Inmarsat
6 from intergovernmental organizations into conven-
7 tional satellite services companies is a key element in
8 bringing about the emergence of a fully competitive
9 global environment for satellite services.

10 (10) The issue of privatization of any State-
11 owned firm is extremely complex and multifaceted.
12 For that reason, the sale of a firm at arm's length
13 does not automatically, and in all cases, extinguish
14 any prior subsidies or government conferred advan-
15 tages.

16 (11) It is in the interest of the United States
17 to negotiate the removal of its reservation in the
18 Fourth Protocol to the General Agreement on Trade
19 in Services regarding INTELSAT's and Inmarsat's
20 access to the United States market through COM-
21 SAT as soon as possible, but such reservation can-
22 not be removed without adequate assurance that the
23 United States market for satellite services will not
24 be disrupted by such INTELSAT or Inmarsat ac-
25 cess.

1 (12) The Communications Satellite Act of
2 1962, and other applicable United States laws, need
3 to be updated to encourage and complete the pro-
4 competitive privatization of INTELSAT and
5 Inmarsat, to update the domestic United States reg-
6 ulatory regime governing COMSAT, and to ensure a
7 competitively neutral United States framework for
8 the provision of domestic and international tele-
9 communications services via satellite systems.

10 **SEC. 4. ESTABLISHMENT OF SATELLITE SERVICES COM-
11 PETITION; PRIVATIZATION.**

12 The Communications Satellite Act of 1962 (47
13 U.S.C. 701) is amended by adding at the end the fol-
14 lowing:

15 **“TITLE VI—SATELLITE SERVICES
16 COMPETITION AND PRIVAT-
17 IZATION**

18 “SUBTITLE A—TRANSITION TO A PRIVATIZED
19 INTELSAT

20 **“SEC. 601. POLICY OF THE UNITED STATES.**

21 “It is the policy of the United States to—

22 “(1) encourage INTELSAT to privatize in a
23 pro-competitive manner as soon as possible, but not
24 later than January 1, 2002, recognizing the need for

1 a reasonable transition and process to achieve a full,
2 pro-competitive restructuring; and

3 “(2) work constructively with its international
4 partners in INTELSAT, and with INTELSAT
5 itself, to bring about a prompt restructuring that
6 will ensure fair competition, both in the United
7 States as well as in the global markets served by the
8 INTELSAT system; and

9 “(3) encourage Inmarsat’s full implementation
10 of the terms and conditions of its privatization
11 agreement.

12 **“SEC. 602. ROLE OF COMSAT.**

13 “(a) **ADVOCACY.**—As the United States signatory to
14 INTELSAT, COMSAT shall act as an aggressive advo-
15 cate of pro-competitive privatization of INTELSAT. With
16 respect to the consideration within INTELSAT of any
17 matter related to its privatization, COMSAT shall fully
18 consult with the United States Government prior to exer-
19 cising its voting rights and shall exercise its voting rights
20 in a manner fully consistent with any instructions issued.
21 In the event that the United States signatory to
22 INTELSAT is acquired after enactment of this section,
23 the President and the Commission shall assure that the
24 instructional process safeguards against conflicts of inter-
25 est.

1 “(b) ANNUAL REPORTS.—The President and the
2 Commission shall report annually to the Committee on
3 Commerce of the House of Representatives and the Com-
4 mittee on Commerce, Science, and Transportation of the
5 Senate, respectively, on the progress being made by
6 INTELSAT and Inmarsat to privatize and complete pri-
7 vatization in a pro-competitive manner.

8 **“SEC. 603. RESTRICTIONS PENDING PRIVATIZATION.**

9 “(a) INTELSAT shall be prohibited from entering
10 the United States market directly to provide any satellite
11 communications services or space segment capacity to car-
12 riers (other than the United States signatory) or end users
13 in the United States until July 1, 2001 or until
14 INTELSAT achieves a pro-competitive privatization pur-
15 suant to section 613 (a) if privatization occurs earlier.

16 “(b) Notwithstanding subsection (a), INTELSAT
17 shall be prohibited from entering the United States mar-
18 ket directly to provide any satellite communications serv-
19 ices or space segment capacity to any foreign signatory,
20 or affiliate thereof, and no carrier, other than the United
21 States signatory, nor any end user, shall be permitted to
22 invest directly in INTELSAT.

23 “(c) Pending INTELSAT’s privatization, the Com-
24 mission shall ensure that the United States signatory is

1 compensated by direct access users for the costs it incurs
2 in fulfilling its obligations under this Act.

3 “(d) The provisions of subsections (b) and (c) shall
4 remain in effect only until INTELSAT achieves a pro-
5 competitive privatization pursuant to section 613 (a).

6 “SUBTITLE B—ACTIONS TO ENSURE PRO-COMPETITIVE
7 SATELLITE SERVICES

8 “SEC. 611. PRIVATIZATION.

9 “(a) IN GENERAL.—The President shall seek a pro-
10 competitive privatization of INTELSAT as soon as prac-
11 ticable, but no later than January 1, 2002. Such privatiza-
12 tion shall be confirmed by a final decision of the
13 INTELSAT Assembly of Parties and shall be followed by
14 a timely initial public offering taking into account relative
15 market conditions.

16 “(b) ENSURE CONTINUATION OF PRIVATIZATION.—
17 The President and the Commission shall seek to ensure
18 that the privatization of Inmarsat continues in a pro-com-
19 petitive manner.

20 “SEC. 612. PROVISION OF SERVICES IN THE UNITED STATES
21 BY PRIVATIZED AFFILIATES OF INTERGOV-
22 ERNMENTAL SATELLITE ORGANIZATIONS.

23 “(a) IN GENERAL.—With respect to any application
24 for a satellite earth station or space station under title
25 III of the Communications Act of 1934 (47 U.S.C 301

1 et seq.) or any application under section 214 of that Act
2 (47 U.S.C. 214), or any letter of intent to provide service
3 in the United States via non-United States licensed space
4 segment, submitted by a privatized IGO affiliate or suc-
5 cessor, the Commission—

6 “(1) shall apply a presumption in favor of entry
7 to an IGO affiliate or successor licensed by a WTO
8 Member for services covered by United States com-
9 mitments under the WTO Basic Telecom Agree-
10 ment;

11 “(2) may attach conditions to any grant of au-
12 thority to an IGO affiliate or successor that raises
13 the potential for competitive harm; or

14 “(3) shall in the exceptional case in which an
15 application by an IGO affiliate or successor would
16 pose a very high risk to competition in the United
17 States satellite market, deny the application.

18 “(b) DETERMINATION FACTORS.—In determining
19 whether an application to serve the United States market
20 by an IGO affiliate raises the potential for competitive
21 harm or risk under subsection (a)(2), the Commission
22 shall determine whether any potential anti-competitive or
23 market distorting consequences of continued relationships
24 or connections exist between an IGO and its affiliates
25 including—

1 “(1) whether the IGO affiliate is structured to
2 prevent anti-competitive practices such as collusive
3 behavior or cross-subsidization;

4 “(2) the degree of affiliation between the IGO
5 and its affiliate;

6 “(3) whether the IGO affiliate can directly or
7 indirectly benefit from IGO privileges and immuni-
8 ties;

9 “(4) the ownership structure of the affiliate and
10 the effect of IGO and other Signatory ownership and
11 whether the affiliate is independent of IGO signato-
12 ries or former signatories who control telecommuni-
13 cations market access in their home territories;

14 “(5) the existence of clearly defined arm’s-
15 length conditions governing the affiliate-IGO rela-
16 tionship including separate officers, directors, em-
17 ployees, and accounting systems;

18 “(6) the existence of fair market valuing for
19 permissible business transactions between an IGO
20 and its affiliate that is verifiable by an independent
21 audit and consistent with normal commercial prac-
22 tice and generally accepted accounting principles;

23 “(7) the existence of common marketing;

24 “(8) the availability of recourse to IGO assets
25 for credit or capital;

1 “(9) whether an IGO registers or coordinates
2 spectrum or orbital locations on behalf of its affil-
3 iate; and

4 “(10) whether the IGO affiliate has corporate
5 charter provisions prohibiting reaffiliation with the
6 IGO after privatization.

7 “(c) SUNSET.—The provisions of subsection (b) shall
8 cease to have effect upon approval of the application pur-
9 suant to section 613.

10 “(d) PUBLIC INTEREST DETERMINATION.—Nothing
11 in this Act affects the Commission’s ability to make a pub-
12 lic interest determination concerning any application per-
13 taining to entry into the United States market.

14 “**SEC. 613. PRESIDENTIAL NEGOTIATING OBJECTIVES AND**
15 **FCC CRITERIA FOR PRIVATIZED IGOs.**

16 “(a) IN GENERAL.—Upon a final decision of the
17 INTELSAT Assembly of Parties creating the legal struc-
18 ture and characteristics of the privatized INTELSAT and
19 recognizing that Inmarsat transitioned into a private com-
20 pany on April 15, 1999, the President shall within 30 days
21 report to the Congress on the extent to which such privat-
22 ization framework meets each of the criteria in subsection
23 (c), and whether taking into consideration all other rel-
24 evant competitive factors, entry of a privatized

1 INTELSAT or Inmarsat into the United States market
2 will not be likely to distort competition.

3 “(b) PURPOSE OF PRIVATIZATION CRITERIA.—The
4 criteria provided in subsection (c) shall be used as—

5 “(1) the negotiation objectives for achieving the
6 privatization of INTELSAT no later than January
7 1, 2002, and also for Inmarsat;

8 “(2) the standard for measuring, pursuant to
9 subsection (a), whether negotiations have resulted in
10 an acceptable framework for achieving the pro-com-
11 petitive privatization of INTELSAT and Inmarsat;
12 and

13 “(3) licensing criteria by the Commission in
14 making its independent determination of whether the
15 certified framework for achieving the pro-competitive
16 privatization of INTELSAT and Inmarsat has been
17 properly implemented by the privatized INTELSAT
18 and Inmarsat.

19 “(c) PRIVATIZATION CRITERIA.—A pro-competitively
20 privatized INTELSAT or Inmarsat—

21 “(1) has no privileges or immunities limiting
22 legal accountability, commercial transparency, or
23 taxation and does not unfairly benefit from owner-
24 ship by former signatories who control telecommuni-
25 cations market access to their home territories;

1 “(2) has submitted to the jurisdiction of com-
2 petition and independent regulatory authorities of a
3 nation that is a signatory to the World Trade Orga-
4 nization Agreement on Basic Telecommunications
5 and that has implemented or accepted the agree-
6 ment’s reference paper on regulatory principles;

7 “(3) can offer assurance of an arm’s-length re-
8 lationship in all respects between itself and any IGO
9 affiliate;

10 “(4) has given due consideration to the inter-
11 national connectivity requirements of thin route
12 countries;

13 “(5) can demonstrate that the valuation of as-
14 sets to be transferred post-privatization is in accord-
15 ance with generally accepted accounting principles;

16 “(6) has access to orbital locations and associ-
17 ated spectrum post-privatization in accordance with
18 the same regulatory processes and fees applicable to
19 other commercial satellite systems;

20 “(7) conducts technical coordinations post-pri-
21 vatization under normal, established ITU proce-
22 dures;

23 “(8) has an ownership structure in the form of
24 a stock corporation or other similar and accepted
25 commercial mechanism, and a commitment to a

1 timely initial public offering has been established for
2 the sale or purchase of company shares;

3 “(9) shall not acquire, or enjoy any agreements
4 or arrangements which secure, exclusive access to
5 any national telecommunications market; and

6 “(10) will have accomplished a privatization
7 consistent with the criteria listed in this subsection
8 at the earliest possible date, but not later than Jan-
9 uary 1, 2002, for INTELSAT and Inmarsat.

10 “(d) FCC INDEPENDENT DETERMINATION ON IM-
11 PLEMENTATION.—After the President has made a report
12 to Congress pursuant to subsection (a), with respect to
13 any application for a satellite earth station or space sta-
14 tion under title III of the Communications Act of 1934
15 (47 U.S.C. 301) or any application under section 214 of
16 the Communications Act of 1934 (47 U.S.C. 214), or any
17 letter of intent to provide service in the United States via
18 a non-United States licensed space segment, submitted by
19 a privatized affiliate prior to the privatized IGO, or by
20 a privatized IGO, the Commission shall determine whether
21 the enumerated objectives for a pro-competitive privatiza-
22 tion of INTELSAT and Inmarsat under this section have
23 been implemented with respect to the privatized IGO, but
24 in making that consideration, may neither contract or ex-
25 pand the privatization criteria in subsection (c).

1 “(e) **AUTHORITY TO DENY AN APPLICATION.**—Nothing
2 ing in this section affects the Commission’s authority to
3 condition or deny an application on the basis of the public
4 interest.

5 **“SEC. 614. FAILURE TO PRIVATIZE IN A TIMELY MANNER.**

6 “(a) **REPORT.**—In the event that INTELSAT fails
7 to fully privatize as provided in section 611 by January
8 1, 2002, the President shall—

9 “(1) instruct all instrumentalities of the United
10 States Government to grant a preference for pro-
11 curement of satellite services from commercial pri-
12 vate sector providers of satellite space segment rath-
13 er than IGO providers;

14 “(2) immediately commence deliberations to de-
15 termine what additional measures should be imple-
16 mented to ensure the rapid privatization of
17 INTELSAT;

18 “(3) no later than March 31, 2002, issue a re-
19 port delineating such other measures to the Com-
20 mittee on Commerce of the House of Representa-
21 tives, and Committee on Commerce, Science, and
22 Transportation of the Senate; and

23 “(4) withdraw as a party from INTELSAT.

24 “(b) **RESERVATION CLAUSE.**—The President may de-
25 termine, after consulting with Congress, that in consider-

1 ation of privatization being imminent, it is in the national
2 interest of the United States to provide a reasonable ex-
3 tension of time for completion of privatization.

4 “SUBTITLE C—COMSAT GOVERNANCE AND OPERATION
5 “SEC. 621. ELIMINATION OF PRIVILEGES AND IMMUNITIES.

6 “(a) COMSAT.—COMSAT shall not have any privi-
7 lege or immunity on the basis of its status as a signatory
8 or a representative of the United States to INTELSAT
9 and Inmarsat, except that COMSAT retains its privileges
10 and immunities—

11 “(1) for those actions taken in its role as the
12 United States signatory to INTELSAT or Inmarsat
13 upon instruction of the United States Government;
14 and

15 “(2) for actions taken when acting as the
16 United States signatory in fulfilling signatory obliga-
17 tions under the INTELSAT Operating Agreement.

18 “(b) NO JOINT OR SEVERAL LIABILITY.—If COM-
19 SAT is found liable for any action taken in its status as
20 a signatory or a representative of the party to
21 INTELSAT, any such liability shall be limited to the por-
22 tion of the judgment that corresponds to COMSAT’s per-
23 centage of the responsibility, as determined by the trier
24 of fact.

1 “(c) PROSPECTIVE EFFECT OF ELIMINATION.—The
2 elimination of privileges and immunities contained in this
3 section shall apply only to actions or decisions taken by
4 COMSAT after the date of enactment of the Open-market
5 Reorganization for the Betterment of International Tele-
6 communications Act.

7 **“SEC 622. ABROGATION OF CONTRACTS PROHIBITED.**

8 “Nothing in this Act or the Communications Act of
9 1934 (47 U.S.C. 151 et seq.) shall be construed to modify
10 or invalidate any contract or agreement involving COM-
11 SAT, INTELSAT, or any terms or conditions of such
12 agreement in force on the date of enactment of the Open-
13 market Reorganization for the Betterment of Inter-
14 national Telecommunications Act, or to give the Commis-
15 sion authority, by rule-making or any other means, to in-
16 validate any such contract or agreement, or any terms and
17 conditions of such contract or agreement.

18 **“SEC. 623. PERMITTED COMSAT INVESTMENT.**

19 “Nothing in this Act shall be construed as precluding
20 COMSAT from investing in or owning satellites or other
21 facilities independent from INTELSAT, or from providing
22 services through reselling capacity over the facilities of
23 satellite systems independent from INTELSAT. This sec-
24 tion shall not be construed as restricting the types of con-
25 tracts which can be executed or services which may be pro-

1 vided by COMSAT over the independent satellites or facili-
2 ties described in this subsection.

3 “SUBTITLE D—GENERAL PROVISIONS

4 **“SEC. 631. PROMOTION OF EFFICIENT USE OF ORBITAL**
5 **SLOTS AND SPECTRUM.**

6 “All satellite system operators authorized to access
7 the United States market should make efficient and timely
8 use of orbital and spectrum resources in order to ensure
9 that these resources are not warehoused to the detriment
10 of other new or existing satellite system operators. Where
11 these assurances cannot be provided, satellite system oper-
12 ators shall arbitrate their rights to these resources accord-
13 ing to ITU procedures.

14 **“SEC. 632. PROHIBITION ON PROCUREMENT PREF-**
15 **ERENCES.**

16 “Except pursuant to section 615 of this Act, nothing
17 in this title or the Communications Act of 1934 (47
18 U.S.C. 151 et seq.) shall be construed to authorize or re-
19 quire any preference in Federal Government procurement
20 of telecommunications services, for the satellite space seg-
21 ment provided by INTELSAT or Inmarsat, nor shall any-
22 thing in this title or that Act be construed to result in
23 a bias against the use of INTELSAT or Inmarsat through
24 existing or future contract awards.

1 **“SEC. 633. SATELLITE AUCTIONS.**

2 “Notwithstanding any other provision of law, the
3 Commission shall not assign by competitive bidding orbital
4 locations or spectrum used for the provision of inter-
5 national or global satellite communications services. The
6 President shall oppose in the International Telecommuni-
7 cations Union and in other bilateral and multilateral nego-
8 tiations any assignment by competitive bidding of orbital
9 locations, licenses, or spectrum used for the provision of
10 such services.

11 **“SEC. 634. RELATIONSHIP TO OTHER LAWS.**

12 “Whenever the application of the provisions of this
13 Act is inconsistent with the provisions of the Communica-
14 tions Act of 1934, the provisions of this Act shall govern.

15 **“SEC. 635. EXCLUSIVITY ARRANGEMENTS.**

16 “(a) IN GENERAL.—No satellite operator shall ac-
17 quire or enjoy the exclusive right of handling traffic to
18 or from the United States, its territories or possessions,
19 and any other country or territory by reason of any con-
20 cession, contract, understanding, or working arrangement
21 to which the satellite operator or any persons or companies
22 controlling or controlled by the operator are parties.

23 “(b) EXCEPTION.—In enforcing the provisions of this
24 subsection, the Commission—

25 “(1) shall not require the termination of exist-
26 ing satellite telecommunications services under con-

1 tract with, or tariff commitment to, such satellite
2 operator; but

3 “(2) may require the termination of new serv-
4 ices only to the country that has provided the exclu-
5 sive right to handle traffic, if the Commission deter-
6 mines the public interest, convenience, and necessity
7 so requires.

8 “SUBTITLE E—DEFINITIONS

9 “**SEC. 641. DEFINITIONS.**

10 “(a) IN GENERAL.—In this title:

11 “(1) INTELSAT.—The term ‘INTELSAT’
12 means the International Telecommunications Sat-
13 ellite Organization established pursuant to the
14 Agreement Relating to the International Tele-
15 communications Satellite Organization.

16 “(2) INMARSAT.—The term ‘Inmarsat’ means
17 the International Mobile Satellite Organization es-
18 tablished pursuant to the Convention on the Inter-
19 national Maritime Satellite Organization and may
20 also refer to INMARSAT Limited when appropriate.

21 “(3) COMSAT.—The term ‘COMSAT’ means
22 the corporation established pursuant to title III of
23 this Act and its successors and assigns.

24 “(4) SIGNATORY.—The term ‘signatory’ means
25 the telecommunications entity designated by a party

1 that has signed the Operating Agreement and for
2 which such Agreement has entered into force.

3 “(5) PARTY.—The term ‘party’ means, in the
4 case of INTELSAT, a nation for which the
5 INTELSAT agreement has entered into force or
6 been provisionally applied, and in the case of
7 INMARSAT, a nation for which the Inmarsat con-
8 vention entered into force.

9 “(6) COMMISSION.—The term ‘Commission’
10 means the Federal Communications Commission.

11 “(7) INTERNATIONAL TELECOMMUNICATION
12 UNION; ITU.—The terms ‘International Tele-
13 communication Union’ and ‘ITU’ mean the intergov-
14 ernmental organization that is a specialized agency
15 of the United Nations in which member countries
16 cooperate for the development of telecommuni-
17 cations, including adoption of international regula-
18 tions governing terrestrial and space uses of the fre-
19 quency spectrum as well as use of the geostationary
20 orbital arc.

21 “(8) PRIVATIZED INTELSAT.—The term
22 ‘privatized INTELSAT’ means any entity created
23 from the privatization of INTELSAT from the as-
24 sets of INTELSAT.

1 “(9) PRIVATIZED INMARSAT.—The term
2 ‘privatized Inmarsat’ means any entity created from
3 the privatization of Inmarsat from the assets of
4 Inmarsat, namely INMARSAT, Ltd.

5 “(10) ORBITAL LOCATION.—The term ‘orbital
6 location’ means the location for placement of a sat-
7 ellite in geostationary orbits as defined in the Inter-
8 national Telecommunication Union Radio Regula-
9 tions.

10 “(11) SPECTRUM.—The term ‘spectrum’ means
11 the range of frequencies used to provide radio com-
12 munication services.

13 “(12) SPACE SEGMENT.—The term ‘space seg-
14 ment’ means the satellites, and the tracking, telem-
15 etry, command, control, monitoring and related fa-
16 cilities and equipment used to support the operation
17 of satellites owned or leased by INTELSAT and
18 Inmarsat or an IGO successor or affiliate.

19 “(13) INTELSAT AGREEMENT.—The term
20 ‘INTELSAT agreement’ means the agreement relat-
21 ing to the International Telecommunications Sat-
22 ellite Organization, including all of its annexes
23 (TIAS 7532, 23 UST 3813).

24 “(14) OPERATING AGREEMENT.—The term ‘op-
25 erating agreement’ means—

1 “(A) in the case of INTELSAT, the agree-
2 ment, including its annex but excluding all ti-
3 tles of articles, opened for signature at Wash-
4 ington on August 20, 1971, by governments or
5 telecommunications entities designated by gov-
6 ernments in accordance with the provisions of
7 The Agreement; and

8 “(B) in the case of Inmarsat, the Oper-
9 ating Agreement on the International Maritime
10 Satellite Organization, including its annexes.

11 “(15) HEADQUARTERS AGREEMENT.—The term
12 ‘headquarters agreement’ means the binding inter-
13 national agreement, dated November 24, 1976, be-
14 tween the United States and INTELSAT covering
15 privileges, exemptions, and immunities with respect
16 to the location of INTELSAT’s headquarters in
17 Washington, D.C.

18 “(16) DIRECT-TO-HOME SATELLITE SERV-
19 ICES.—The term ‘direct-to-home satellite services’
20 means the distribution or broadcasting of program-
21 ming or services by satellite directly to the sub-
22 scriber’s premises without the use of ground receiv-
23 ing or distribution equipment, except at the sub-
24 scriber’s premises or in the uplink process to the
25 satellite.

1 “(17) IGO.—The term ‘IGO’ means the Inter-
2 governmental Satellite organizations, INTELSAT
3 and Inmarsat.

4 “(18) IGO AFFILIATE.—The term ‘IGO affil-
5 iate’ means any entity in which an IGO owns or has
6 owned an equity interest of 10 percent or more.

7 “(19) IGO SUCCESSOR.—The term ‘IGO Suc-
8 cessor’ means an entity which holds substantially all
9 the assets of a pre-existing IGO.

10 “(20) GLOBAL MARITIME DISTRESS AND SAFE-
11 TY SERVICES.—The term ‘global maritime distress
12 and safety services’ means the automated ship-to-
13 shore distress alerting system which uses satellite
14 and advanced terrestrial systems for international
15 distress communications and promoting maritime
16 safety in general, permitting the worldwide alerting
17 of vessels, coordinated search and rescue operations,
18 and dissemination of maritime safety information.

19 “(b) COMMON TERMS.—Except as otherwise provided
20 in subsection (a), terms used in this title that are defined
21 in section 3 of the Communications Act of 1934 (47
22 U.S.C. 153) have the meaning provided in that section.”.

23 **SEC. 5. CONFORMING CHANGES.**

24 (a) REPEAL OF FEDERAL COORDINATION AND PLAN-
25 NING PROVISIONS.—Section 201 of the Communications

1 Satellite Act of 1962 (47 U.S.C. 721) is amended to read
2 as follows:

3 **“SEC. 201. IMPLEMENTATION OF POLICY.**

4 “The Federal Communications Commission, in its
5 administration of the Communications Act of 1934, shall
6 make rules and regulations to carry out the provisions of
7 this Act.”.

8 (b) REPEAL OF GOVERNMENT-ESTABLISHED COR-
9 PORATION PROVISIONS.—

10 (1) IN GENERAL.—Section 301 of the Commu-
11 nications Satellite Act of 1962 (47 U.S.C. 731) is
12 amended to read as follows:

13 **“SEC. 301. CORPORATION.**

14 “The corporation organized under the provisions of
15 this title, as this title existed before the enactment of the
16 Open-market Reorganization for the Betterment of Inter-
17 national Telecommunications Act, known as COMSAT,
18 and its successors and assigns, are subject to the provi-
19 sions of this Act. The right to repeal, alter, or amend this
20 Act at any time is expressly reserved.”.

21 (2) CONFORMING CHANGES.—Title III of the
22 Communications Satellite Act of 1962 (47 U.S.C.
23 731 et seq.) is amended—

1 (A) by striking “**CREATION OF A**
2 **COMMUNICATIONS SATELLITE**” in
3 the caption of title III;

4 (B) by striking sections 302, 303, and
5 304;

6 (C) by redesignating section 305 as section
7 302; and

8 (D) by striking subsection (c) of section
9 302, as redesignated.

10 (c) **REPEAL OF CERTAIN MISCELLANEOUS PROVI-**
11 **SIONS.**—Title IV of the Communications Satellite Act of
12 1962 (47 U.S.C. 741 et seq.) is amended—

13 (1) by striking section 402;

14 (2) by striking subsection (a) of section 403
15 and redesignating subsections (b) and (c) as sub-
16 sections (a) and (b), respectively; and

17 (3) by striking section 404.

18 **SEC. 6. INTERNATIONAL MARITIME SATELLITE TELE-**
19 **COMMUNICATIONS ACT AMENDMENTS.**

20 (a) **REPEAL OF SUPERSEDED AUTHORITY.**—Title V
21 of the Communications Satellite Act of 1962 (47 U.S.C.
22 751 et seq.) is amended—

23 (1) by striking sections 502, 503, 504, and 505;
24 and

25 (2) by inserting after section 501 the following:

1 **“SEC. 502. GLOBAL SATELLITE SAFETY SERVICES AFTER**
2 **PRIVATIZATION OF BUSINESS OPERATIONS**
3 **OF INMARSAT.**

4 “In order to ensure the continued provision of global
5 maritime distress and safety satellite telecommunications
6 services after privatization of the business operations of
7 Inmarsat, the President may maintain membership in the
8 International Mobile Satellite Organization on behalf of
9 the United States.”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 subsection (a) take effect on the date on which the Inter-
12 national Mobile Satellite Organization ceases to operate
13 directly a global mobile satellite system.

Passed the Senate July 1, 1999.

Attest:

Secretary.

106TH CONGRESS
1ST SESSION

S. 376

AN ACT

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

S 376 ES—2

S 376 ES—3

S 376 ES—4

S 376 ES—5