

(Pub. L. 87-624, title VI, § 624, as added Pub. L. 106-180, § 3, Mar. 17, 2000, 114 Stat. 54; amended Pub. L. 109-34, § 3, July 12, 2005, 119 Stat. 377.)

PART C—DEREGULATION AND OTHER STATUTORY CHANGES

§ 765. Access to INTELSAT

(a) Access permitted

Beginning on March 17, 2000, users or providers of telecommunications services shall be permitted to obtain direct access to INTELSAT telecommunications services and space segment capacity through purchases of such capacity or services from INTELSAT. Such direct access shall be at the level commonly referred to by INTELSAT, on March 17, 2000, as ‘‘Level III’’.

(b) Rulemaking

Within 180 days after March 17, 2000, the Commission shall complete a rulemaking, with notice and opportunity for submission of comment by interested persons, to determine if users or providers of telecommunications services have sufficient opportunity to access INTELSAT space segment capacity directly from INTELSAT to meet their service or capacity requirements. If the Commission determines that such opportunity to access does not exist, the Commission shall take appropriate action to facilitate such direct access pursuant to its authority under this chapter and the Communications Act of 1934 [47 U.S.C. 151 et seq.]. The Commission shall take such steps as may be necessary to prevent the circumvention of the intent of this section.

(c) Contract preservation

Nothing in this section shall be construed to permit the abrogation or modification of any contract.

(Pub. L. 87-624, title VI, § 641, as added Pub. L. 106-180, § 3, Mar. 17, 2000, 114 Stat. 55.)

Editorial Notes

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (b), is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 765a. Signatory role

(a) Limitations on signatories

(1) National security limitations

The Federal Communications Commission, after a public interest determination, in consultation with the executive branch, may restrict foreign ownership of a United States signatory if the Commission determines that not to do so would constitute a threat to national security.

(2) No signatories required

The United States Government shall not require signatories to represent the United States in INTELSAT or Inmarsat or in any successor entities after a pro-competitive privatization is achieved consistent with sections 763, 763a, and 763c<sup>1</sup> of this title.

<sup>1</sup> See References in Text note below.

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AMENDMENTS

2005—Pub. L. 109-34 amended section catchline and text generally, substituting provisions relating to space segment capacity of the GMDSS for provisions relating to specific criteria for Inmarsat privatization.

§ 763d. Encouraging market access and privatization

(a) NTIA determination

(1) Determination required

Within 180 days after March 17, 2000, the Secretary of Commerce shall, through the Assistant Secretary for Communications and Information, transmit to the Commission—

(A) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that impose barriers to market access for private satellite systems; and

(B) a list of Member countries of INTELSAT and Inmarsat that are not Members of the World Trade Organization and that are not supporting pro-competitive privatization of INTELSAT and Inmarsat.

(2) Consultation

The Secretary’s determinations under paragraph (1) shall be made in consultation with the Federal Communications Commission, the Secretary of State, and the United States Trade Representative, and shall take into account the totality of a country’s actions in all relevant fora, including the Assemblies of Parties of INTELSAT and Inmarsat.

(b) Imposition of cost-based settlement rate

Notwithstanding—

(1) any higher settlement rate that an overseas carrier charges any United States carrier to originate or terminate international message telephone services; and

(2) any transition period that would otherwise apply,

the Commission may by rule prohibit United States carriers from paying an amount in excess of a cost-based settlement rate to overseas carriers in countries listed by the Commission pursuant to subsection (a).

(c) Settlements policy

The Commission shall, in exercising its authority to establish settlements rates for United States international common carriers, seek to advance United States policy in favor of cost-based settlements in all relevant fora on international telecommunications policy, including in meetings with parties and signatories of INTELSAT and Inmarsat.

(Pub. L. 87-624, title VI, § 625, as added Pub. L. 106-180, § 3, Mar. 17, 2000, 114 Stat. 54.)

**(b) Clarification of privileges and immunities of COMSAT****(1) Generally not immunized**

Notwithstanding any other law or executive agreement, COMSAT shall not be entitled to any privileges or immunities under the laws of the United States or any State on the basis of its status as a signatory of INTELSAT or Inmarsat.

**(2) Limited immunity**

COMSAT or any successor in interest shall not be liable for action taken by it in carrying out the specific, written instruction of the United States issued in connection with its relationships and activities with foreign governments, international entities, and the inter-governmental satellite organizations.

**(3) No joint or several liability**

If COMSAT is found liable for any action taken in its status as a signatory or a representative of the party to INTELSAT, any such liability shall be limited to the portion of the judgment that corresponds to COMSAT's percentage of the ownership of INTELSAT at the time the activity began which lead to the liability.

**(4) Provisions prospective**

Paragraph (1) shall not apply with respect to liability for any action taken by COMSAT before March 17, 2000.

**(c) Parity of treatment**

Notwithstanding any other law or executive agreement, the Commission shall have the authority to impose similar regulatory fees on the United States signatory which it imposes on other entities providing similar services.

(Pub. L. 87-624, title VI, §642, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 55.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 763c of this title, referred to in subsec. (a)(2), was amended generally by Pub. L. 109-34, §3, July 12, 2005, 119 Stat. 377, and no longer relates to specific criteria for Inmarsat privatization.

**§ 765b. Elimination of procurement preferences**

Nothing in this subchapter or the Communications Act of 1934 [47 U.S.C. 151 et seq.] shall be construed to authorize or require any preference, in Federal Government procurement of telecommunications services, for the satellite space segment provided by INTELSAT, Inmarsat, or any successor entity or separated entity.

(Pub. L. 87-624, title VI, §643, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

**Editorial Notes**

## REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, which is classified principally to chapter 5 (§151 et seq.) of this title. For complete classification of this Act to the Code, see section 609 of this title and Tables.

**§ 765c. ITU functions****(a) Technical coordination**

The Commission and United States satellite companies shall utilize the International Telecommunication Union procedures for technical coordination with INTELSAT and its successor entities and separated entities, rather than INTELSAT procedures.

**(b) ITU notifying administration**

The President and the Commission shall take the action necessary to ensure that the United States remains the ITU notifying administration for the privatized INTELSAT's existing and future orbital slot registrations.

(Pub. L. 87-624, title VI, §644, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

**§ 765d. Termination of provisions of this chapter**

Effective on the dates specified, the following provisions of this chapter shall cease to be effective:

(1) March 17, 2000: Paragraphs (1), (5) and (6) of section 721(a) of this title; section 721(b) of this title; paragraphs (1), (3) through (5), and (8) through (10) of section 721(c) of this title; section 733 of this title; section 734 of this title; section 751 of this title; section 752 of this title; paragraphs (2) and (4) of section 753(a) of this title; and section 753(c) of this title.

(2) Upon the transfer of assets to a successor entity and receipt by signatories or former signatories (including COMSAT) of ownership shares in the successor entity of INTELSAT in accordance with appropriate arrangements determined by INTELSAT to implement privatization: Section 735 of this title.

(3) On the effective date of a Commission order determining under section 761(b)(2) of this title that Inmarsat privatization is consistent with criteria in sections 763 and 763c<sup>1</sup> of this title: Sections 753(b) and 753(d) of this title.

(4) On the effective date of a Commission order determining under section 761(b)(2) of this title that INTELSAT privatization is consistent with criteria in sections 763 and 763a of this title: Section 701 of this title; section 702(7) of this title; paragraphs (2) through (4) and (7) of section 721(a) of this title; paragraphs (2), (6), and (7) of section 721(c) of this title; section 731 of this title; section 732 of this title; section 741 of this title; section 742 of this title; section 743 of this title; and section 744 of this title.

(Pub. L. 87-624, title VI, §645, as added Pub. L. 106-180, §3, Mar. 17, 2000, 114 Stat. 56.)

**Editorial Notes**

## REFERENCES IN TEXT

The transfer of assets and receipt by signatories of ownership shares in the successor entity of INTELSAT, referred to in par. (2), occurred on July 18, 2001. See *FCC Report to Congress as Required by the ORBIT Act*, FCC 02-170, 17 FCC Rcd. 11458 (released June 14, 2002).

The effective date of the Commission order relating to Inmarsat privatization, referred to in par. (3), is

<sup>1</sup> See References in Text note below.