

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Intelsat North America LLC,
PanAmSat Licensee Corp., and
PanAmSat H-2 Licensee Corp.
Annual Satellite Status Report

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FILED/ACCEPTED
JUN 30 2008
Federal Communications Commission
Office of the Secretary

REQUEST FOR CONFIDENTIAL TREATMENT

Intelsat North America LLC, PanAmSat Licensee Corp. and PanAmSat H-2 Licensee Corp. (collectively, "Intelsat") respectfully request that, pursuant to Sections 0.457 and 0.459 of the Commission's Rules, the Commission withhold from public inspection and accord confidential treatment to portions of the enclosed Annual Satellite Status Report ("Report").¹ Specifically, Intelsat requests confidential treatment of Part 2 of the Report, which contains unscheduled transponder outage information, Part 3, which contains transponder utilization tables for all in-orbit satellites, and Part 4, which contains information on transponders not available for service or transponders not performing within specifications. Parts 2, 3 and 4 of the Report contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").²

Exemption 4 allows parties to withhold from public information "trade secrets and commercial or financial information obtained from any person and privileged or confidential-categories of materials not routinely available for public inspection."³ Applying Exemption 4,

¹ 47 C.F.R. §§ 0.457, 0.459.

² See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

³ *Id.*

the courts have stated that commercial or financial information is confidential if its disclosure will have either of the following effects: (1) impairs the government's ability to obtain necessary information in the future; or (2) causes substantial harm to the competitive position of the person from whom the information was obtained.⁴ Fixed satellite service space station operators routinely request confidential treatment of transponder outage and utilization information contained in their Reports and the Commission has withheld such information from public inspection.⁵

Section 0.457(d)(2) of the Commission's rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure.⁶ The requirements governing such requests are set forth in Section 0.459(b). In accordance with the specifications delineated in that rule, Intelsat hereby submits the following:

1. Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))

Intelsat seeks confidential treatment of the information contained in Parts 2, 3 and 4 of its Report. Part 2 of the Report contains information about any unscheduled transponder outages lasting 30 minutes or more. Part 3 of the Report contains transponder utilization information for all of Intelsat's in-orbit satellites. Part 4 of the Report contains information on transponders not available for service or not operating within parameters. These parts contain commercially sensitive information that falls within Exemption 4 of FOIA.

⁴ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993).

⁵ See, e.g., *Loral Space & Communications Ltd. Annual Status Report* (filed June 30, 2000); *PanAmSat Corporation Annual Status Report* (filed July 2, 2001).

⁶ 47 C.F.R. § 0.457(d)(2).

2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

Intelsat is filing the instant Report pursuant to Section 25.210(l)⁷, which requires all fixed satellite service space station operators to file on June 30 of each year a report with the International Bureau containing: (1) the status of satellite construction and anticipated launch dates; (2) a listing of any non-scheduled transponder outages lasting 30 minutes or more; and (3) a detailed description of transponder utilization of each in-orbit satellite.

3. Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3))

Parts 2, 3 and 4 of the Report contain sensitive commercial information that competitors could use to Intelsat's disadvantage. The courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings.⁸ The Commission has broadly defined commercial information, stating that "[c]ommercial" is broader than ~~information regarding basic commercial operations, such as sales and profits; it includes~~ information about work performed for the purpose of conducting a business's commercial operations."⁹ The transponder utilization table contains detailed information about leased transponder capacity and the amount of transponder capacity available for sale aboard each satellite. This is sales information, clearly within the definition of "commercial." Competitors could use this information, as well as information about any unscheduled transponder outages and malfunctioning transponders, to enhance their market position at Intelsat's expense.

⁷ 47 C.F.R. § 25.210(l).

⁸ See *Bd. of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980)

⁹ *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules*, 14 FCC Rcd 1851, 1860 (1998) (Memorandum Opinion and Order) (citing *Public Citizen Health Research group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

Moreover, the transponder information meets both definitions of “confidential.” First, a decision to not treat this information as confidential could affect the Commission’s ability to obtain necessary information in the future. Although this information is required by Section 25.210(l), space station operators may be reluctant to provide such detailed transponder information if it is not accorded confidential treatment. Second, as explained in detail in Section 5, release of this transponder information could result in substantial competitive harm.

4. Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4))

Substantial competition exists in the telecommunications satellite industry. Other players in the geostationary, fixed satellite service market include SES Americom, Eutelsat and Telesat, among others. The presence of these competitors makes imperative the confidential treatment of sensitive commercial information.

~~**5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))**~~

As explained briefly in Section 3, release of the transponder utilization and transponder outage and malfunction reports could have a significant impact on Intelsat’s commercial operations. If competitors or customers had access to this information, it could negatively affect Intelsat’s future negotiations with potential and existing customers. Specifically, competitors and customers could use the transponder capacity and outage and malfunction information to negotiate more favorable leasing terms. In addition, competitors could use this information to develop market and business strategies to negatively affect Intelsat’s future business plans.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

Intelsat limits access to the transponder capacity and outage and malfunction information to necessary personnel only. Also, Intelsat takes every precaution to ensure that this information is not released to the general public.

7. Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))


Intelsat has not made the transponder utilization and outage and malfunction information available to the public and has not disclosed the information to any parties other than the FCC.

8. Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8))

Intelsat respectfully requests that the Commission withhold the transponder utilization and outage and malfunction information from public inspection for fifteen years. The Commission generally licenses satellites for a fifteen-year term and this information remains commercially sensitive until a satellite is decommissioned.

Respectfully submitted,

Intelsat North America LLC,
PanAmSat Licensee Corp, and
PanAmSat H-2 Licensee Corp.

By: 

Jennifer D. Hindin
WILEY REIN LLP
1776 K Street, N.W.
Washington, DC 20006-2304
202.719.7000
Their Attorney

Dated: June 30, 2008

PUBLIC VERSION

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

ANNUAL SATELLITE STATUS REPORT

TO THE

FEDERAL COMMUNICATIONS COMMISSION

(Data as of May 31, 2008)

June 30, 2008

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 1
Status of Satellite Construction**

Galaxy 19

The Galaxy 19 spacecraft is a C/Ku-band satellite with 24 C-band and 28 Ku-band channels under construction by Space Systems/Loral. The spacecraft was taken out of storage at the end of May 2008 in preparation for a launch in September 2008 on a Sea Launch vehicle.

Intelsat 14

In January 2007, Intelsat contracted with Space Systems Loral for the construction of the Intelsat 14 spacecraft. This is a C/Ku-band satellite with 40 C-band and 22 Ku-band channels.

The contractor successfully completed the System Critical Design Review in November 2007. Integration of the communication module started in early 2008 and will be completed in June 2008. Spacecraft level thermal vacuum tests and dynamics tests are currently planned for the third and fourth quarter of 2008, respectively.

The satellite is expected to be completed in the second quarter of 2009, followed by a launch in the second or third quarter of 2009 on an Atlas launch vehicle.

Intelsat 15

In March 2007, Intelsat contracted with Orbital Sciences Corporation for the construction of the Intelsat 15 spacecraft. This is a Ku-band satellite with 22 Ku-band channels.

The System Preliminary Design Review and System Critical Design Review were held in August 2007 and February 2008, respectively. Payload and bus integration started in the first quarter of 2008. Initial reference performance tests are currently planned for third quarter 2008, followed by spacecraft level environmental tests in the fourth quarter.

The satellite is expected to be completed in the first quarter of 2009, followed by a launch in the second quarter of 2009 on a Land Launch vehicle.

Intelsat 16

In February 2007, Intelsat contracted with Orbital Sciences Corporation for the construction of the Intelsat 16 spacecraft. The spacecraft was originally designed as a replacement to Intelsat 11 (Ku-band payload only) in the case of a failure of the IS 11 spacecraft during launch or early commissioning. Following the successful launch of

Intelsat 11, Intelsat contracted with Orbital Sciences to modify the satellite payload to carry 24 active Ku-band transponders.

The contractor successfully completed System Critical Design Review in May 2007. Completion of the satellite is foreseen for the fourth quarter of 2009, with a launch at the end of 2009 on a Land Launch vehicle.

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 2
Non-Scheduled Transponder Outages**

Business Proprietary Information Deleted

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H 2 LICENSEE CORP.**

**Part 3
Transponder Utilization**

Business Proprietary Information Deleted

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 4
Transponders Not Available for Service
or
Not Performing to Specification**

Business Proprietary Information Deleted