

**C L I F F O R D  
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By Hand Delivery

June 21, 2001

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

2001 JUN 22 P 12:50

Re: *Joint Petition to Defer in the Matter of Lockheed Martin Global Telecommunications, COMSAT Corporation, and COMSAT General Corporation, Assignor, and Telenor Satellite Mobile Services, Inc. and Telenor Satellite Inc., Assignee, Application for Approval of Assignments and Petition for Declaratory Ruling*

**File No. SES-ASG-20010504-00896**

Dear Ms. Salas:

Transmitted herewith, on behalf of Telenor Satellite Mobile Services, Inc. and Telenor Satellite, Inc. ("Telenor"), Lockheed Martin Global Telecommunications, COMSAT Corporation and COMSAT General Corporation ("COMSAT"), and the Department of Justice and Federal Bureau of Investigation, are an original and four copies of a Joint Petition to Defer in the above-referenced matter. The enclosed Petition requests that the Commission defer the grant of approval for the assignments requested in the above-referenced Application pending a resolution by the above parties of those aspects of the Application that give rise to national security, law enforcement, and public safety concerns.

Questions concerning COMSAT should be directed to John Reynolds of Wiley, Rein & Fielding, 1776 K Street, N.W., Washington, D.C. 20006, telephone (202) 719-7000. Questions concerning Telenor should be directed to George Kleinfeld of Clifford Chance Rogers & Wells, 2001 K Street, N.W., Washington, D.C. 20006, telephone (202) 912-5000.

Respectfully submitted,



George Kleinfeld  
Counsel for Telenor

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ROGERS & WELLS LLP**

Ms. Magalie Roman Salas  
June 21, 2001

cc: Mr. James Bird  
Mr. Tom Tycz  
Ms. Rebecca Arbogast  
Mr. Karl Kensinger  
Ms. Claudia Fox  
Mr. John Coles  
Mr. Ronald Repasi  
Ms. Sylvia Lam  
Ms. Alexandra Field  
Ms. Lisa Choi  
Ms. Claire Blue

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Lockheed Martin Global	)	
Telecommunications, COMSAT	)	
Corporation, and COMSAT	)	
General Corporation, Assignor	)	
	)	
and	)	File No. SES-ASG-20010504-00896
	)	
Telenor Satellite Mobile Services, Inc.,	)	
and Telenor Satellite, Inc., Assignee	)	
	)	
Applications for Assignment of	)	
Section 214 Authorizations and	)	
Earth Station Licenses	)	
	)	

**JOINT PETITION TO DEFER**

Lockheed Martin Global Telecommunications (“LMGT”), COMSAT Corporation, and COMSAT General Corporation (collectively “COMSAT”), together with Telenor Satellite Mobile Services, Inc. (“TSMS”), Telenor Satellite, Inc. (“Telenor Satellite”), and their Norwegian indirect sole owner and guarantor, Telenor Broadband Services AS (individually or collectively “Telenor”), and the Department of Justice (“DOJ”) and Federal Bureau of Investigation (“FBI”) (collectively, “the parties”) respectfully request that the Federal Communications Commission (a) defer grant of the above-captioned Application

pending a resolution by the parties of those aspects of the Application that raise potential national security, law enforcement, and public safety issues, and (b) condition any such grant on compliance with the terms of an agreement entered into to address those issues.

In the above captioned proceeding, COMSAT and Telenor have applied under Sections 214, 310(b)(4) and 310(d) of the Communications Act of 1934<sup>1</sup> (“the Act”) for approval of the assignment from COMSAT to Telenor of licenses and authorizations currently held by COMSAT. The Applicants seek approval of these assignments in connection with TSMS’s proposed acquisition of the assets of a COMSAT business unit known as COMSAT Mobile Communications (“CMC”). Approximately 79% of the Telenor companies’ ultimate parent, Telenor ASA, is owned by the Kingdom of Norway. As part of the Application, the companies have requested a declaratory ruling (the “Declaratory Ruling”) that the acquisition of these authorizations and licenses by Telenor Satellite, and the proposed operation by TSMS of the CMC business, is consistent with Section 310 and will serve the public interest.

Because Telenor Satellite is subject to the ultimate control of a corporation of which approximately 79% is owned by a foreign government, the FBI and DOJ have concerns that the proposed assignment of COMSAT’s licenses and authorizations to Telenor Satellite could, absent an appropriate agreement, impair the ability of authorized governmental agencies in the U.S. to satisfy their obligations to preserve the national security, enforce the laws, and protect public safety. The parties therefore request that, until they reach an agreement that adequately addresses those national security, law enforcement, and public

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<sup>1</sup> 47 U.S.C. §§ 214, 310.

safety issues, the Commission defer the formal issuance of an Order concerning COMSAT's and Telenor's request for the Declaratory Ruling.

Because the integrity of U.S. telecommunications services is critical to the ability of our government to preserve the national security, enforce the laws, and maintain the safety of the public, the FBI and the DOJ have previously availed themselves of the opportunity under Sections 214 and 310 of the Act, and implementing regulations, to comment regarding the public interest concerns raised by particular transactions. In the *Foreign Participation Order*, the Commission said that, in reviewing license applications from foreign carriers under Sections 214 and 310(b)(4) of the Communications Act, it would: (1) continue to apply the public interest test, and (2) "continue to find national security, law enforcement, foreign policy and trade policy concerns relevant to our decision to grant or deny Section 214 and 310(b)(4) applications from applicants from WTO member[s]."<sup>2</sup> The Commission elaborated by saying that:

[W]e realize that foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch . . .

We thus will continue to accord deference to the expertise of Executive Branch agencies in identifying and interpreting issues of concern related to national security, law enforcement, and foreign policy that are relevant to an application pending before us.<sup>3</sup>

It is the opinion of the DOJ and the FBI that granting approval for the proposed assignments requested by the parties in this proceeding could materially affect the ability of

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<sup>2</sup> *In the Matter of Rules and Policies of Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 23,891, ¶ 61 (Nov. 1997). The Commission gives consideration to concerns relating to national security, law enforcement, and public safety independent of any competitive concerns presented by the transaction.

<sup>3</sup> *Id.* at ¶¶ 62-63.

our government to meet its obligations to U.S. citizens to preserve the national security, enforce the laws and protect the public safety. These obligations can be satisfactorily fulfilled by the implementation of an agreement and the imposition of conditions on the proposed assignment that will ensure that the foreign ownership of U.S. telecommunications licenses and authorizations proposed here will not impair the ability of federal, state and local governments to: (1) conduct securely and effectively lawfully-authorized electronic surveillance of domestic U.S. calls or calls that originate or terminate in the United States; (2) prevent and detect foreign-based or other illegal electronic surveillance within the United States, which might jeopardize the security of the United States or privacy of U.S. telecommunications; and (3) satisfy U.S. National Security Emergency Preparedness and U.S. infrastructure protection requirements.

In their filings with the Commission, COMSAT and Telenor have both committed to entering into an agreement with Executive Branch agencies to address fully the implications for national security, law enforcement and public safety that the proposed assignments present, and have both further agreed to the subsequent conditioning of the affected authorizations on compliance with that agreement.<sup>4</sup> The parties are currently and in good faith working expeditiously towards reaching such an agreement.

Accordingly, the parties hereby request jointly that the Commission: (a) without delaying its present consideration of the Application in any other respect, defer the formal issuance of an Order on COMSAT's and Telenor's petition for the Declaratory Ruling until such time as the parties have notified the Commission that they have concluded an

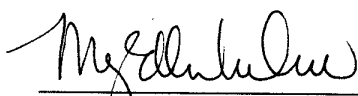
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<sup>4</sup> See Application for Approval of Assignments and Petition for Declaratory Ruling (May 4, 2001), Section V. D.

agreement addressing those aspects of the proposed assignments that raise national security, law enforcement, and public safety concerns; and (b) condition any grant of authority on compliance with the terms of such agreement.

Respectfully submitted,

Date: June 21, 2001



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