

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

In the Matter of	)	File Nos. SAT-MOD-20021108-00204
	)	SAT-MOD-20021108-00205
SES AMERICOM, INC.	)	SAT-MOD-20021108-00206
	)	SAT-MOD-20021108-00207
Applications for Modification of Fixed-Satellite	)	SAT-MOD-20021108-00208
Service Space Station Licenses	)	SAT-MOD-20021108-00209
	)	SAT-MOD-20021108-00210
	)	SAT-MOD-20021108-00211
	)	SAT-AMD-20021108-00215
	)	SAT-STA-20011211-00127
	)	SAT-MOD-20020628-00094
and	)	SAT-STA-20030613-00106
	)	SAT-STA-20021121-00223
	)	SAT-STA-20030610-00101
	)	SAT-STA-20021121-00224
	)	SAT-STA-20030410-00063
	)	SAT-STA-20021002-00185
	)	SAT-STA-20030506-00082
COLUMBIA COMMUNICATIONS	)	SAT-STA-20021025-00197
CORPORATION	)	SAT-MOD-20021108-00216
	)	SAT-MOD-20021108-00217
	)	SAT-MOD-20021108-00219
	)	SAT-AMD-20021108-00218
Applications for Modification of Fixed-Satellite	)	SAT-MOD-20020627-00095
Service Space Station Licenses	)	SAT-STA-20011211-00131

ORDER AND AUTHORIZATION

Adopted: August 15, 2003

Released: August 15, 2003

By: Chief, International Bureau

I. INTRODUCTION

1. By this *Order and Authorization*, we grant SES AMERICOM, Inc. (“SES AMERICOM”) and its subsidiary Columbia Communications Corporation (“Columbia”) (collectively, “Applicants”) authority to provide capacity for the delivery of Direct-To-Home (“DTH”) services over their U.S.-licensed fixed-satellite service (“FSS”) facilities on a non-common carrier basis. We also grant SES AMERICOM and Columbia a 5-year extension of the license term for its GSTAR 4 and TDRS-5 satellites, and authority to provide DTH service using these satellites. In addition, we grant SES AMERICOM authority to provide DTH service using the Satcom C-1, Satcom C-3, Satcom C-4, and Satcom SN-4 satellites, which each currently operate under Special Temporary Authority (“STA”). As discussed below, we find that today’s action is in the public interest pursuant to our review under Section

309 of the Communications Act of 1934, as amended, (“Act”)¹ and the Commission’s rules. Our authorization will promote fair and increased competition in the provision of satellite service in the United States, and thus increase competition in the delivery of satellite services, which will provide benefits to the public by maximizing consumer choice.

II. BACKGROUND

2. In October 2001, the Commission approved the transfer of control of GE American Communications, Inc. (“GE Americom”) and its wholly-owned subsidiary, Columbia, from General Electric Capital Corporation to SES Global S.A. (“SES Global”) (“*GE/SES Global Transfer Order*”).² Pursuant to this approval, GE Americom (now SES AMERICOM) and Columbia, both of which are U.S. corporations holding various Commission-issued licenses and authorizations, became indirect wholly-owned subsidiaries of SES Global, a foreign corporation.³ Thus, while SES AMERICOM and Columbia remain U.S.-authorized licensees, they are owned and controlled by a foreign company, SES Global.⁴

3. In the *GE/SES Global Transfer Order* authorizing the transfer of control of licenses and authorizations to SES Global, the Commission found that because SES Global and its named foreign shareholders were from World Trade Organization (“WTO”) member countries, under the *Foreign Participation Order*,⁵ they were entitled to a rebuttable presumption that no competitive concerns were

¹ 47 U.S.C. § 309.

² See *General Electric Capital Corporation and SES Global S.A.*, Order and Authorization, DA 01-2100, 16 FCC Rcd 17575 (Int’l Bur. & Wireless Tel. Bur.) (2001) (“*GE/SES Global Transfer Order*”); *General Electric Capital Corporation and SES Global S.A.*, Supplemental Order, DA 01-2482, 16 FCC Rcd 18878 (Int’l Bur. & Wireless Tel. Bur.) (2001) (“*Supplemental Order*”).

³ The transfer of control of GE Americom and Columbia to SES Global, and the name change from GE Americom to SES AMERICOM, were effective on November 9, 2001. See Letter from Phillip L. Spector, Laura B. Sherman, and Douglas C. Melcher, attorneys for SES Global S.A., SES AMERICOM, Inc., and Columbia Communications Corporation to Magalie R. Salas, Secretary, Federal Communications Commission, dated November 21, 2001.

⁴ According to the Applicants, non-U.S. citizens hold an economic interest of approximately 70% and voting interest of approximately 80% in SES Global. The major non-U.S. ownership interests are the State of Luxembourg, and two state-owned financial institutions, Banque et Caisse d’Epargne de l’Etat and Societe Nationale de Credit et d’Investissement (combined, 16.67% economic and 34.90 % voting); Deutsche Telekom, A.G. (13.15% economic and 11.02% voting); and the Government of Germany and German state-owned bank, Kreditanstalt fuer Wiederaufbau (combined indirect interest, through their ownership interest in Deutsche Telekom, of approximately 6% economic and 5% voting). The remaining shares of SES Global owned by non-U.S. citizens are held either directly or through Fiduciary Depositary Receipts traded on the Luxembourg and Frankfurt stock exchanges (approximately 40% economic and 33% voting). See File No. SAT-MOD-20021108-00204, FCC Form 312, Exhibit A. See also *GE/SES Transfer Order* at para. 42; *Supplemental Order* at para. 11; and *SES Americom, Inc., Petition for Declaratory Ruling, Grant of Authority, Public Notice*, Report No. TEL-00567, DA-02-2060 (Int’l Bur. Aug. 22, 2002) (ruling on indirect foreign ownership of SES Global’s operating subsidiaries under Section 310(b)(4) of the Act).

⁵ See *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21 (1997) (“*Foreign Participation Order*”); Order on Reconsideration, 15 FCC Rcd 18158 (2000). The *Foreign Participation Order* was adopted in light of the WTO Basic Telecommunications Agreement (“WTO Basic Telecom Agreement”), which contains the United States’ WTO market access commitments and the market-opening commitments of other countries.

raised by their proposed indirect foreign ownership of the Applicants.⁶ After careful consideration of relevant factors and evidence that might tend to rebut the presumption, the Commission determined, as required under Section 310(b)(4) of the Act,⁷ that the public interest would not be served by prohibiting the transaction.⁸ The Commission also conducted a general public interest analysis under Section 310(d) of the Act, and found that the proposed transaction would serve the public interest, convenience and necessity.⁹ Accordingly, the Commission approved the transfer of control of the Applicants to SES Global.

4. The *GE/SES Global Transfer Order* noted, however, that because the United States' market-opening commitments in the WTO Basic Telecom Agreement did not cover DTH satellite services, Direct Broadcast Satellite ("DBS") Service, and Digital Audio Radio Services ("DARS"),¹⁰ the rebuttable presumption in favor of foreign entry did not apply to these services.¹¹ Noting that the Applicants did not provide these services and did not request authorization for these services, the Commission stated that its review therefore did not encompass the provision of these services and that SES Global was prohibited from providing DTH, DBS, and DARS services to, from, or within the United States without first obtaining further Commission authorization.¹²

5. Subsequently, SES AMERICOM and Columbia filed applications requesting authority to provide space segment for the delivery of DTH services over their FSS satellite facilities ("DTH Applications"). The DTH Applications include requests for modifications of existing satellite licenses,¹³ amendments to pending satellite applications,¹⁴ amendments to pending satellite modifications,¹⁵ and

⁶ *GE/SES Global Transfer Order*, 16 FCC Rcd at 17586-89; *Supplemental Order*, 16 FCC Rcd at 18884.

⁷ 47 U.S.C. § 310(b)(4).

⁸ *GE/SES Global Transfer Order*, 16 FCC Rcd at 17584-17593.

⁹ *GE/SES Global Transfer Order*, 16 FCC Rcd at 17583-84, 17593-94, 17596-97.

¹⁰ *See Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24135 (1997) ("*DISCO II Order*"). DTH, DBS, and DARS are considered "non-WTO-covered services" for purposes of the WTO Basic Telecom Agreement. *See also DISCO II Order*, 12 FCC Rcd at 24099-24100, 24135-37.

¹¹ *GE/SES Global Transfer Order* at n. 110.

¹² *GE/SES Global Transfer Order* at n. 110.

¹³ SES AMERICOM requested modification of its licenses for AMC-1, AMC-2, AMC-3, AMC-4, AMC-5, AMC-6, AMC-7, AMC-8 (*see* File Nos. SAT-MOD-20021108-00204, SAT-MOD-20021108-00205, SAT-MOD-20021108-00206, SAT-MOD-20021108-00207, SAT-MOD-20021108-00208, SAT-MOD-20021108-00209, SAT-MOD-20021108-00210, and SAT-MOD-20021108-00211); and Columbia requested modification of its licenses for TDRS-6, AMC-12, and AMC-22 (*see* File Nos. SAT-MOD-20021108-00216, SAT-MOD-20021108-00217, and SAT-MOD-20021108-00219).

¹⁴ SES AMERICOM amended its license applications for AMC-9, AMC-10, and AMC-11 (*see* File Nos. SAT-AMD-20021108-00212, SAT-AMD-20021108-00213, SAT-AMD-20021108-00214). However, because SES AMERICOM's DTH Applications for AMC-9, AMC-10, and AMC-11 relate to pending applications for launch authority for these satellites (*see* File Nos. SAT-LOA-20020114-00008, SAT-LOA-20020104-00001, and SAT-LOA-20020104-00002), we will not consider these amendments at this time, but will address them in our review of the underlying Launch and Operational Authority ("LOA") application. We note that SES AMERICOM is currently operating AMC-9 and providing DTH service over AMC-9 pursuant to STA (*see* SAT-STA-20030328-00044,

amendments and extension requests to their current STAs.¹⁶ According to the DTH Applications, the Applicants will offer all DTH services on a non-common carrier, subscription basis.¹⁷ The Applicants' amendments also request grant of the underlying modification and STA extension requests as amended. In addition, SES AMERICOM asks to classify the license status of its AMC-1, GSTAR 4, and Satcom C-4 satellite as non-common carrier.¹⁸

6. The DTH Applications were placed on Public Notice and the only comments filed were by PanAmSat Corporation ("PanAmSat").¹⁹ For the reasons discussed below, we grant the Applicants' request for authority to provide capacity for the delivery of DTH services using FSS facilities on AMC-1, AMC-2, AMC-3, AMC-4, AMC-5, AMC-6, AMC-7, AMC-8, AMC-12, AMC-22, and TDRS-6.²⁰ We also grant the Applicants' request for a five-year extension of the license term for GSTAR 4 and TDRS-5 and the authority to provide capacity for the delivery of DTH services on these satellites. Additionally, we grant the Applicants' amended STA and STA extension requests to continue operation of Satcom C-1, Satcom C-3, Satcom C-4, and Satcom SN-4 and to provide capacity for the delivery of DTH services over these satellites. Finally, we note the status change from common carrier to non-common carrier for SES AMERICOM's license for AMC-1, GSTAR 4, and Satcom C-4 and will include notification of this change in the Satellite Division's weekly Public Notice of actions taken and

granted June 26, 2003).

¹⁵ SES AMERICOM filed an amendment to its pending modification application for GSTAR 4 (*see* File No. SAT-AMD-20021108-00215), which relates to its pending application to extend the license term for GSTAR 4 to five years (*see* File No. SAT-MOD-20020628-00094). Columbia filed an amendment to its pending modification application for TDRS 5 (*see* File No. SAT-AMD-20021108-00218), which relates to its pending application to extend the license term for TDRS 5 to five years (*see* File No. SAT-MOD-20020627-00095). Both the SES AMERICOM and Columbia amendments request grant of the underlying modification as amended. *See infra* discussion at Section III. B.

¹⁶ SES AMERICOM has filed amendments and extension requests to its STA grants, which in addition to seeking authority for continued operation of the satellite, request authority to provide DTH service using the satellite. These STA amendment and extension requests have been filed for Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4. (*See* File Nos. SAT-STA-20030613-00106, SAT-STA-20030601-00101, SAT-STA-20030410-00063, SAT-STA-20030506-00082). These applications followed earlier requests seeking DTH authority for these satellites. (*See* File Nos. SAT-STA-20021121-00223, SAT-STA-20021121-00224, SAT-STA-20021002-00185, and SAT-STA-20021025-00197). We granted the STA requests for continued operational authority without prejudice to the Commission's actions on SES AMERICOM's request to provide DTH service using these satellites. *See infra* discussion at Section III. C.

¹⁷ *See, e.g.*, File No. SAT-MOD-20021108-00204, Narrative Exhibit at 1. The narratives for all the modification applications and amendments submitted by SES AMERICOM and Columbia are substantially the same. Unless stated otherwise, all references herein to the "Narrative" are to the narrative exhibit for File No. SAT-MOD-20021108-00204.

¹⁸ Narrative at 1 n.1.

¹⁹ *See* Public Notice, Report No. SAT-00128 (rel. November 15, 2002).

²⁰ We note that SES AMERICOM is currently operating AMC-2 and providing DTH service over AMC-2 pursuant to STA. *See Application by SES AMERICOM For Special Temporary Authority to Operate AMC-2 at 105 degrees W.L.*, Order and Authorization, File No. SAT-STA-20030402-00061, DA 03-2197 (rel. July 7, 2003) (Satellite Div., Int'l Bur.).

update our database to reflect this change.²¹

III. DISCUSSION

A. Request For DTH Authority

1. Standard of Review

7. Because of the foreign ownership interests of SES Global in SES AMERICOM and Columbia, we first consider whether our review of their applications is governed by the foreign ownership provisions of Section 310(a) and (b) of the Act.²² We find that these provisions do not apply to the DTH Applications for the following reasons. The Applicants, SES AMERICOM and Columbia, which directly hold Commission licenses, are commercial enterprises and are not a foreign government or a representative of a foreign government.²³ Thus, our review does not fall under Section 310(a) of the Act, which prohibits “any foreign government or the representative thereof” from holding a license.²⁴ Nor do we find the provisions of Section 310(b) applicable in this case. In the DTH Applications before us, the Applicants propose to provide DTH service on a non-common carrier basis and have notified us of a change in the regulatory classification from common carrier to non-common carrier for the AMC-1, GSTAR 4, and Satcom C-4 satellite licenses.²⁵ Thus, because the proposed provision of DTH service does not involve a “broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license,” the statutory provisions of Section 310(b) of the Act do not apply.²⁶

8. We next consider the Applicants’ request in light of other relevant Commission policies and rules with respect to foreign ownership of U.S.-authorized satellites. In the *2002 DBS Report and Order*,²⁷ the Commission addressed the issue of whether specific foreign ownership limitations on DTH-FSS licensees providing subscription service were needed in addition to the statutory limitations in Section 310(a) and (b) of the Act.²⁸ The Commission concluded that adopting additional foreign

²¹ See *Amendment to the Commission’s Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems*, Report and Order, FCC 96-14, 11 FCC Rcd 2429, 2436 (1996).

²² See 47 U.S.C. § 310(a) and (b).

²³ See *GE/SES Global Transfer Order*, 16 FCC Rcd at 17584-85. The Commission, in the *GE/SES Global Transfer Order*, permitted the indirect foreign ownership of the Applicants by SES Global to include foreign government interests by the Federal Republic of Germany (through its ownership interest in Deutsche Telekom, A.G.) and the State of Luxembourg. The Commission found that such indirect investment was not inconsistent with the foreign ownership provisions of Section 310(a) of the Act. *Id.* at 17585, 17593.

²⁴ See 47 U.S.C. § 310(a).

²⁵ All other satellite licenses held by SES AMERICOM and Columbia are already classified as non-common carrier.

²⁶ See 47 U.S.C. § 310(b).

²⁷ See *Policies and Rules for the Direct Broadcast Satellite Service*, Report and Order, FCC 02-110, 17 FCC Rcd 11311 (2002) (“*2002 DBS Report and Order*”).

²⁸ *2002 DBS Report and Order*, 17 FCC Rcd at 11349. The Commission has defined subscription service as a non-broadcast service. See *2002 DBS Report and Order* 17 FCC Rcd at 11346, 11348, citing *Subscription Video Order*, 2 FCC 2d 1001, 1007 (1987), *aff’d*, *National Association for Better Broadcasting v. FCC*, 849 F.2 665 (D.C. Cir. 1988); and *Subscription Video Order Services*, 4 FCC Rcd 4948 (1989).

ownership rules for providers of DTH subscription services would affect the competitiveness of DBS, DTH and of the multi-video programming distribution (“MVPD”) markets, which would be inconsistent with the Commission’s efforts to increase competition in the MVPD market.²⁹ The Commission also noted that it has traditionally taken a deregulatory approach to DTH-FSS and has refrained from imposing unnecessary regulations. Thus, the Commission declined to adopt restrictions on foreign ownership of U.S. licensees providing DTH subscription service beyond those already required by statute.³⁰ The Commission stated, however, that it would apply the requirements set forth in its *DISCO II*³¹ decision in deciding questions of access to the U.S. market by foreign-licensed satellites.³²

9. In *DISCO II*, the Commission determined that for all requests involving provision of non-WTO covered services (*i.e.*, DTH, DBS and DARS) by foreign-licensed satellites, it would evaluate the effective competitive opportunities (“ECO”) in the country in which the foreign satellite was licensed (the “ECO-Sat” test).³³ Thus, we note that if SES Global were seeking to operate a foreign-licensed satellite in the United States, we would not permit it to provide DTH service until we conducted an ECO-Sat analysis pursuant to *DISCO II*.³⁴ Generally, under an ECO-Sat analysis, we would determine whether a U.S.-licensed satellite has “effective competitive opportunities” to provide DBS, DTH, and/or DARS service in the country that licenses the foreign satellite. This analysis ensures that the competitive environment in the United States is not distorted by foreign entry.³⁵ Unless there are countervailing public interest factors present, if a foreign satellite operator cannot “pass” the ECO-Sat test, we would condition the license to prevent any competitive distortion in the United States³⁶ or, in cases where conditions could not remedy the competitive harm, deny the request to serve the United States from the

²⁹ 2002 DBS Report and Order, 17 FCC Rcd at 11349.

³⁰ 2002 DBS Report and Order, 17 FCC Rcd at 11349. In the 2002 DBS Report and Order, the Commission determined not to impose foreign ownership restrictions on either DBS or DTH licensees in addition to requirements already imposed under Section 310(a) and (b) of the Act. Thus, the Commission eliminated Section 100.11 of the rules (47 U.S.C. § 100.11) which tracked the language of Sections 310(a) and (b) of the Communications Act and applied only to DBS licensees, and declined to impose new foreign ownership limitations on DTH licensees providing subscription service in addition to the statutory limitations in Section 310(a) and (b) of the Act. See 2002 DBS Report and Order, 17 FCC Rcd at 11349.

³¹ See *DISCO II Order*, 12 FCC Rcd 24135-24138. See also *supra* note 10.

³² See 2002 DBS Report and Order, 17 FCC Rcd 11349.

³³ See *DISCO II Order*, 12 FCC Rcd at 24136.

³⁴ This is because the United States took an exception for DTH, DBS, and DARS when it committed to opening its satellite market in the WTO Basic Telecom Agreement. See *DISCO II Order*, 12 FCC Rcd at 24135. See also *Digital Broadband Applications Corp., Consolidated Application for Authority to Operate U.S. Earth Stations with a U.S. – Licensed Ku-Band FSS Satellite and Canadian-Licensed Nimiq and Nimiq 2 Satellites to Offer Integrated Two-Way Broadband Video and Data Service Throughout the United States (Call Sign E020010)*, Order, DA 03-1526 (Int’l Bur., rel. May 7, 2003) (“*DBAC Order*”). In that case, the Commission conducted an ECO-Sat analysis for DBAC’s proposed DBS service using Canadian satellites.

³⁵ See *DISCO II Order*, 12 FCC Rcd at 24135.

³⁶ See, *e.g.*, *DBAC Order* at paras. 15-19. Even in cases where we find countervailing public interest factors are present, we may still find it necessary to impose conditions. See, *e.g.*, *DBAC Order* at para. 19.

foreign satellite.³⁷

10. Because none of the instant DTH Applications involve a request to provide non-WTO covered services in the United States using foreign-licensed satellites, our review does not fall squarely within the analytic framework adopted by the Commission in *DISCO II*. To ensure, however, that the public interest is served, we will examine, pursuant to our review under Section 309, whether the foreign ownership of the Applicants by SES Global is likely to distort competition in any relevant U.S. market.³⁸ As we have previously recognized, the Commission may, in appropriate cases, take foreign ownership into account to determine whether there are public interest harms resulting from foreign investment in non-common carrier wireless licensees pursuant to our public interest determination under Section 310(d) of the Act.³⁹ While Section 310(d) applies to applications for consent to transfer control or assign licenses, the standard of review under both that section and Section 309 is whether grant of the application would serve the public interest, convenience and necessity.⁴⁰ Accordingly, our examination of the DTH Applications before us considers the indirect foreign ownership of the Applicants, as providers of DTH service in the United States, and examines whether their provision of these non-WTO covered services may adversely affect the public interest, convenience and necessity.⁴¹ We consider the likely competitive effects of the provision of DTH service by SES Global in the United States and whether such provision of service raises significant anti-competitive issues. In addition, our review takes into consideration concerns, if any, raised by the Executive Branch regarding issues of national security, law enforcement, foreign policy and trade policy.⁴² We note however, that in this case, no Executive Branch agency has raised issues of concern with respect to grant of the DTH Applications.

2. Definition of DTH Service

11. Prior to conducting our review under Section 309 in this case, we must determine whether the Applicants' proposed provision of space segment capacity to a DTH provider is DTH service within the meaning of the license prohibition in the *GE/SES Global Transfer Order*. In their DTH Applications, the Applicants contend that the DTH prohibition should not have been included in their licenses. The Applicants argue that they should not be classified as DTH providers, since at the time of the merger they (1) did not offer DTH services directly to consumers, nor do so today; (2) had no contractual relationship with end-users; and (3) had no role in the packaging of DTH services. Instead, the Applicants emphasize that they simply provide transmission capacity.⁴³

³⁷ See *DISCO II Order*, 12 FCC Rcd at 24098.

³⁸ 47 U.S.C. § 309.

³⁹ See *Orbital Communications Corporation and ORBCOMM Global, L.P. (Assignors) and ORBCOMM License Corp. and ORBCOMM LLC (Assignees)*, Order and Authorization, 17 FCC Rcd 4496, 4506-4507 (Int'l Bur. 2002) ("*Orbcomm Order*").

⁴⁰ See 47 U.S.C. §§ 310(d), 309(a).

⁴¹ See, e.g., *GE/SES Global Transfer Order*, 16 FCC Rcd at 17583.

⁴² See *Orbcomm Order*, 17 FCC Rcd at 4506.

⁴³ See Narrative at 3-4. The Applicants contend that they are simply filing the modification requests "out of an abundance for caution and to ensure that the scope of authority is clear." *Id.*

12. PanAmSat supports the Applicants' request to provide DTH service but disagrees with the Applicants' definition of what constitutes providing DTH service.⁴⁴ PanAmSat points out that the Commission previously addressed the issue of what constitutes providing DTH service in the *2001 Intelsat Decision*.⁴⁵ In that decision, PanAmSat states, the Commission found that an FSS operator providing bare capacity to a customer, which in turn provides DTH service, amounts to that FSS operator providing DTH service.⁴⁶ PanAmSat submits that although the Commission's definition of what constitutes providing DTH service in the *2001 Intelsat Decision* was addressed in the context of the ORBIT Act, the same definition should logically apply to SES Global.⁴⁷

13. We conclude that SES AMERICOM and Columbia, which provide space segment capacity to DTH providers, are providing DTH service within the meaning of their license prohibition. The Commission's decision as to what constitutes providing DTH service should be applied consistently unless there is a rational basis for determining otherwise. In the *2001 Intelsat Decision*, the Commission found that INTELSAT's provision of bare capacity to providers of DTH service constitutes the provision of DTH service. Although the Commission addressed INTELSAT's provision of DTH service in the context of the ORBIT Act, the decision was based on criteria by which the Commission was to determine whether, if privatized, the use of INTELSAT (for, *inter alia*, the provision of DTH service) in the United States would harm competition in the U.S. market.⁴⁸ That is essentially the nature of our inquiry here, *i.e.*, to determine whether the provision of DTH service by particular U.S. licensees will harm competition in the U.S. market. SES AMERICOM's and Columbia's proposed provision of DTH service does not differ from INTELSAT's provision of DTH service – as all three providers lease satellite capacity to customers who, in turn use the capacity to provide DTH service to end-users. We find no basis for distinguishing the service INTELSAT provides from that which SES AMERICOM and Columbia propose to provide.⁴⁹ Thus, we find that the Applicants' provision of bare capacity to providers of DTH service constitutes providing DTH service. Consequently, we conclude that the DTH limitation in SES AMERICOM's and Columbia's licenses applies to *any* provision of DTH service on their satellites, whether directly to end-users by SES AMERICOM/Columbia or through a DTH provider leasing capacity on an SES AMERICOM/Columbia satellite. Thus, we find the DTH prohibition was properly included in SES AMERICOM's and Columbia's licenses. In addition, SES AMERICOM and

⁴⁴ PanAmSat Comments at 3.

⁴⁵ See *Applications of Intelsat LLC For Authority to Operate, and to Further Construct, Launch and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, Memorandum Opinion Order and Authorization, 16 FCC Rcd 12280, 12296 (2001) (“*2001 Intelsat Decision*”).

⁴⁶ PanAmSat Comments at 3. The *2001 Intelsat Decision* concerned the privatization of Intelsat and its compliance with the Open-Market Reorganization for the Betterment of International Telecommunications Act (“ORBIT Act”), Pub. L. 106-180, 114 Stat. 48 (2000), 47 U.S.C. § 761 et seq.

⁴⁷ PanAmSat Comments at 3.

⁴⁸ The ORBIT Act set criteria by which the Commission was to determine whether the nature of the privatization of INTELSAT would harm competition in the United States and imposed specific limitations on INTELSAT expansion into additional services, which were defined to be “direct-to-home (DTH) or direct broadcast satellite (DBS) video services, or services in the Ka- or V-bands.” 47 U.S.C. § 769(12). See *2001 Intelsat Decision*, 16 FCC Rcd at 12294, 12296.

⁴⁹ In this respect, we note that SES AMERICOM and Columbia are currently providing these services to customers under agreements they claim were in place prior to consummation of the transaction approved in the *GE/SES Global Transfer Order* or under extensions of those agreements. See Narrative at 3.

Columbia are subject to statutory and regulatory requirements applicable to all DTH satellite licensees.⁵⁰

3. Section 309 Review

a. Foreign Ownership Analysis

14. As noted above, as part of our Section 309 public interest determination, we may, in appropriate cases, take foreign ownership into account to determine whether there are public interest harms resulting from foreign investment in non-common carrier wireless licensees.⁵¹ Accordingly, our examination of the DTH Applications before us considers the indirect foreign ownership of the Applicants by SES Global, and examines whether provision of these non-WTO covered services could create competitive distortions in the U.S. market.

15. The Applicants state that the Commission has already determined that the foreign ownership of SES AMERICOM and Columbia is consistent with the public interest and contend that the same findings in the *GE/SES Global Transfer Order* are applicable to the provision of DTH services by the Applicants in this case.⁵² For instance, they state that in the *GE/SES Global Transfer Order*, the Commission rejected the suggestion that SES Global could achieve and exercise market power in the provision of any satellite services in the United States.⁵³

16. In the context of the DTH Applications, however, we note that competitive concerns could arise in the provision of these non-WTO covered services where a foreign operator “buys” U.S.-licensed satellites, as is the case here. Competitive distortions could be created where a U.S.-licensed satellite is owned by a foreign operator and that foreign operator could provide services in the United States that a U.S.-owned operator could not provide because it could not obtain authorization to operate in the home market of the foreign operator.⁵⁴

17. Such concerns, however, have not been presented in this case. Based on the record in the *GE/SES Global Transfer Order*, and on the lack of any evidence to the contrary in this proceeding, we find no basis to conclude that SES Global’s ownership interest in SES AMERICOM and Columbia provides the Applicants with any competitive advantages in the provision of DTH service in the U.S. market. Thus, we conclude that no competitive concerns are presented by SES Global’s indirect ownership interest in the Applicants as providers of DTH service in the United States.

b. Competitive Analysis

18. Our Section 309 review also examines whether the provision of DTH service by SES AMERICOM and Columbia will further competition in the U.S. market and whether competitive harm is likely to occur from their participation in the market. We also consider efficiencies and other public

⁵⁰ See e.g., public interest obligations imposed by 47 CFR section 25.701.

⁵¹ See *supra* note 39 and accompanying text.

⁵² Narrative at 9-10, citing *GE/SES Transfer Order*, 16 FCC Rcd 17575-76, 17583-97.

⁵³ Narrative at 10, citing *GE/SES Transfer Order*, 16 FCC Rcd 17591-92.

⁵⁴ For example, no party has argued that the Applicants will be uniquely positioned to offer foreign-originated DTH service in the United States over their U.S. licensed satellites directly or through an affiliated programmer.

interest benefits that are likely to result from the provision of DTH service by the Applicants. Our review considers all of SES AMERICOM's and Columbia's U.S.-licensed satellites, including those satellites currently operating under STAs.⁵⁵

19. SES AMERICOM and Columbia argue that grant of their DTH Applications will ensure a level playing field among U.S.-licensed satellites, enhancing competition in the satellite market and furthering the public interest.⁵⁶ The Applicants contend that granting the DTH Applications will confirm that SES AMERICOM and Columbia are entitled to provide the same range of services as other U.S. licensees, which includes the provision of DTH service.⁵⁷ They claim that any restrictions on SES AMERICOM's and Columbia's ability to provide such service distorts competition in the satellite services market by artificially narrowing the choices available to customers seeking transmission capacity for distribution of DTH services.⁵⁸

20. The Applicants also argue that approval of the DTH Applications would be consistent with the Commission decision in the *2002 DBS Report and Order*.⁵⁹ The Applicants claim that in eliminating the rule on foreign ownership from the DBS rules and declining to extend the rule to DTH providers, the Commission made a clear policy judgment in favor of competitive equity and against imposing unnecessary restrictions on DBS and DTH ownership.⁶⁰ The Applicants contend this policy judgment supports approval of the DTH Applications in this case.⁶¹

21. The Applicants further state that, with respect to carriage of national cable television networks, the Commission found that competitive pressure by existing firms offering these services and by newly authorized systems that could offer these services would likely prevent SES Global from exercising market power.⁶² They argue that the facts support extending these same findings to the provision of DTH services. The Applicants explain that DTH customers (*i.e.*, program distributors) seek to purchase service from a satellite provider with the best combination of features at the best price, and emphasize that there are no other special competitive advantages.⁶³ Thus, according to the Applicants, the only way they can attract new customers is through attractively priced service packages. Accordingly, they contend that grant of the DTH Applications would promote customer welfare by ensuring that program distributors can choose from a broader range of service providers that will

⁵⁵ See *supra* notes 13, 14, 15 and 16.

⁵⁶ Narrative at 5.

⁵⁷ Narrative at 5-6. The Applicants state that their competitors, which include PanAmSat, Intelsat and others, currently offer DTH services.

⁵⁸ Narrative at 6.

⁵⁹ Narrative at 6-9.

⁶⁰ Narrative at 9.

⁶¹ Narrative at 9.

⁶² Narrative at 10, citing *GE/SES Transfer Order*, 16 FCC Rcd at 17592.

⁶³ Narrative at 11.

compete for DTH carriage by offering prospective customers the best possible deal.⁶⁴

22. We find that grant of authority to SES AMERICOM and Columbia to provide capacity for the delivery of DTH services over its currently authorized FSS facilities, including those satellites currently operating under an STA, will not have a negative effect on competition, and might, in fact, enhance competition among U.S. licensees providing DTH service.⁶⁵ We note that, except for its operations under an STA, SES AMERICOM and Columbia do not otherwise provide DTH services⁶⁶ in the United States nor are they affiliated with other satellite providers that provide DTH services in the United States.⁶⁷ In other proceedings and reports we have suggested that DTH service may compete with DBS service, and also may be a part of the MVPD market, which includes cable, wireless cable, private cable, and broadcast television.⁶⁸ At this time SES Americom and Columbia provide at most small amounts of MVPD service compared to either the major DBS providers or the major cable multiple system operators (“MSOs”), and they also do not have substantial investments in other companies that provide DTH or have terrestrial operations that provide DTH or MVPD services. Thus, granting the DTH authorizations will not diminish the level of service or the level of competition in the provision of DTH services or in the provision of MVPD services, but in fact can only be expected to expand the provision of such services and thus increase the level of competition in the provision of those services. We find that participation by SES AMERICOM and Columbia in the provision of DTH services is on balance pro-competitive: it will increase provision of DTH services and will not result in any countervailing competitive harm. Accordingly, we find that grant of the DTH Applications is in the public interest.

B. Request for Five-Year Extension of Satellite License Term and DTH Authority

23. SES AMERICOM has requested a modification of its license for GSTAR 4 to extend the license period by five-years.⁶⁹ Columbia also has requested a modification of its license for TDRS-5 to extend the license period by five years.⁷⁰ In their DTH Applications, the Applicants state that GSTAR 4 and TDRS5 are expected to remain capable of providing service for several more years.⁷¹ They note that

⁶⁴ Narrative at 11.

⁶⁵ See *DBAC Order* at paras. 16, 17; *2002 DBS Report and Order*, 17 FCC Rcd at 11349.

⁶⁶ Our definition of DTH service includes the provision of DTH service directly to end-users or the provision of bare capacity to customers who, in turn use the capacity to provide DTH service to end-users. See *supra* para. 13.

⁶⁷ See e.g., *GE/SES Transfer Order*, 16 FCC Rcd at 17577-17581.

⁶⁸ See, for example: *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Ninth Annual Report, MB Docket No. 02-145, FCC 02-338, rel. Dec. 31, 2002, at ¶ 3-14; and *Policies and Rules for the Direct Broadcast Satellite Service*, Report and Order, IB Docket No. 98-21, FCC 02-110, rel. June 13, 2002, at ¶ 34.

⁶⁹ See File No. SAT-MOD-20020628-00094 seeking to extend the license term for GSTAR 4 to five years until December 19, 2005.

⁷⁰ See File No. SAT-MOD-20020627-00095 seeking to extend the license term for TDRS 5 to five years until July 31, 2005.

⁷¹ See File Nos. SAT-MOD-20020628-00094 and SAT-MOD-20020627-00095 at p. 2.

in the Commission's 2002 *Space & Earth Station Streamlining Order*,⁷² the Commission adopted rules to permit the issuance of space station and earth station licenses from 10 years to 15 years.⁷³ They contend that granting an extension for the GSTAR 4 and TDRS-5 satellites would be consistent with the Commission's decision to routinely license geostationary satellites for a 15-year period and would save significant resources for both the Commission and the Applicants if the Applicants did not have to seek (and the Commission grant) multiple STA requests.⁷⁴

24. The Commission recently adopted new procedures and policies in the 2003 *First Space Station Reform Order*⁷⁵ intended to expedite the space station licensing process and to recognize the technical growth in satellite design over the past years. One measure the Commission adopted is the automatic modification of all existing space station licenses that extends the license term of the satellite an additional five years, to 15 years, from the date the satellite was successfully placed into orbit.⁷⁶ The Commission specifically ordered that the license term of each space station license issued on or before April 17, 2002, and in effect on the release date of the decision (May 19, 2003), will be extended to 15 years, starting on the date the licensee certified to the Commission that the space station was successfully placed in orbit and its operations fully conform to the terms and conditions of its authorization.⁷⁷

25. We find that the Applicants' requests to extend the license term for the GSTAR 4 and TDRS-5 satellites are consistent with the newly adopted rules in the 2003 *First Space Station Reform Order* and will qualify for an automatic extension of license under the new rules once the rules become effective.⁷⁸ GSTAR 4 commenced operation on December 19, 1990, with a ten-year license term, and SES AMERICOM requests extension of the license term to December 19, 2005.⁷⁹ On December 30,

⁷² *Amendment of the Commission's Space Station Licensing Rules and Policies; Biennial Regulatory Review – Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations*, Notice of Proposed Rulemaking and First Report and Order, FCC 02-45, 17 FCC Rcd 3847, 3895-96 (2002) (“2002 *Space & Earth Station Streamlining Order*”).

⁷³ *Id.* at 3894-3896. The Commission adopted rules to permit the issuance of space and earth station licenses with 15-year terms, an increase from the previous 10-year term. While the Commission made clear that the new earth station license term rule applied only to earth station licenses granted after the new rules took effect, it did not state clearly whether existing space station licenses were subject to the revised rule.

⁷⁴ See File Nos. SAT-MOD-20020628-00094 and SAT-MOD-20020627-00095 at p. 2.

⁷⁵ *In the Matter of Amendment of the Commission's Space Station Licensing Rules and Policies, Mitigation of Orbital Debris*, First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54, FCC 03-102 (rel. May 19, 2003) (“2003 *First Space Station Reform Order*”).

⁷⁶ See 2003 *First Space Station Reform Order* at para. 266.

⁷⁷ See 2003 *First Space Station Reform Order* at para. 353.

⁷⁸ The rules become effective upon publication of a summary of the 2003 *First Space Station Reform Order* in the Federal Register. See 2003 *First Space Station Reform Order* at para. 350.

⁷⁹ Subsequent to expiration of GSTAR 4's license term on December 19, 2000 SES AMERICOM has continued to operate the satellite pursuant to STA grants. See File Nos. SAT-STA-20001114-00161 and SAT-STA-20010619-00057. SES AMERICOM filed a request for an extension of the STA for additional six months on December 5, 2001. See File No. SAT-STA-20011211-00127. That STA, which remains pending, is rendered moot by today's action on the license term modification request.

1991, Columbia was authorized to provide international video, voice and data communications using leased transponders on TDRS-5.⁸⁰ Columbia requests extension of this license to July 31, 2005, a date based on the launch milestone for the replacement satellite of June 2005.⁸¹ We will grant SES AMERICOM and Columbia's modification requests at this time and extend the license term consistent with the space station license extension rules we adopted in the *2003 First Space Station Reform Order*. Thus, the license term for the GSTAR 4 satellite is hereby extended until December 19, 2005,⁸² and the license term for the TDRS-5 satellite is hereby extended until July 31, 2005.⁸³

26. As noted earlier in this decision, the Applicants filed amendments to the above-mentioned modification applications seeking authority to provide DTH service using the GSTAR 4 and TDRS-5 satellites.⁸⁴ For the reasons stated in Section III.A, above, we grant SES AMERICOM and Columbia authority to provide DTH services using the GSTAR 4 and TDRS-5 satellites for the extended term of the licenses.

27. Columbia also requests a waiver of the FCC's full frequency reuse requirement in order to make use of the TDRS-5 capacity.⁸⁵ Columbia notes that the Commission has previously granted Columbia a waiver of this requirement for TDRS-5 and for other TDRS satellites. Columbia adds that as was the case with TDRS-6, the replacement satellite⁸⁶ for TDRS-5 will be fully compliant with the requirements for frequency reuse.⁸⁷ We find that grant of Columbia's waiver request is appropriate and is consistent with our previous actions waiving the full frequency reuse requirements on TDRSS satellites as long as its use does not preclude the use of the resource by a satellite that meets the Commission's full frequency reuse requirements. Accordingly, we will grant Columbia the requested

⁸⁰ TDRS-5 was launched by and is operated by the National Aeronautics and Space Administration. *See Columbia Communications Corporation*, Order, 7 FCC Rcd 122 (1991) ("*1991 Columbia Order*"). The *1991 Columbia Order*, which became effective upon adoption on December 30, 1991, authorized Columbia to provide international communications services using TDRS-5. Prior to expiration of its license term, on December 30, 2001, Columbia requested an STA to continue to operate the satellite for a six-month period. *See* File No. SAT-STA-20011211-00131. That STA request, which remains pending, is rendered moot by today's action on the instant STA request.

⁸¹ *See* SAT-MOD-20020627-00095 at p. 2-3.

⁸² SES AMERICOM has notified the Commission that the GSTAR 4 satellite is in inclined orbit, with an expected end of life at December 31, 2004. *See* Letter from Karis Hastings, counsel for SES AMERICOM to Marlene H. Dortch, Secretary, Federal Communications Commission, dated January 21, 2003. We note that SES AMERICOM's authorization, as extended, does not include authority for the end-of-life disposal and associated radio transmissions.

⁸³ Although Columbia requested an earlier date, once the new rules are effective, the license term automatically will be extended 15 years from the date the satellite was placed in orbit and fully operational in conformance with its authorization.

⁸⁴ *See supra* para. 5, note 15. *See also* File Nos. SAT-AMD-20021108-00215 and SAT-AMD-20021108-00218.

⁸⁵ *See Licensing of Space Stations in the Domestic Fixed Satellite Service*, Report and Order, 54 R.R.2d 577, 598 & n. 67 (1983); *Establishment of Satellite Systems Providing International Communications*, Report and Order, 101 FCC 2d 1046, 1168-72 (1985).

⁸⁶ In February 2000, the Commission authorized Columbia to construct and operate a replacement satellite. *See Columbia Communications Corporation*, Order and Authorization, 16 FCC Rcd 4725 (Int'l Bur., 2001).

⁸⁷ The launch milestone for the replacement satellite is June 2005. *Id.*

waiver subject to the same conditions that we imposed in our previous waiver grant for TDRSS satellites.⁸⁸

C. Request for DTH Authority Using Satellites Operating Pursuant to STAs

28. The original 10-year license terms for the Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4 satellites have already expired.⁸⁹ SES AMERICOM continues to operate these satellites pursuant to our approval of its STA and STA extension requests.⁹⁰ In each of its requests for continued authority to operate Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4, SES AMERICOM has additionally requested authority to provide DTH service using these satellites.⁹¹ Although we have granted SES AMERICOM's STA and STA-extension requests to continue to operate, to the extent we have granted its concomitant request for DTH authority, our grants have been conditioned upon our review of SES AMERICOM's request for permanent authority to provide DTH services. For the reasons stated in Section III.A, above, we find that granting SES AMERICOM authority to provide DTH service using the Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4 satellites, which currently operate under an STA, is in the public interest.⁹²

29. We note that pursuant to our decision in the *2003 First Space Station Reform Order*, once the order becomes effective, SES AMERICOM's Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4 satellites will qualify under the new rules for an additional 5-year extension of its license term.⁹³ To ensure the scope of SES AMERICOM's authority to operate these satellites is clear, we grant SES AMERICOM authority to provide DTH services using Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4 for the duration of each satellite's extended license term.

IV. CONCLUSION

30. Accordingly, IT IS ORDERED that SES AMERICOM's modification applications, File Nos. SAT-MOD-20021108-00204, SAT-MOD-20021108-00205, SAT-MOD-20021108-00206, SAT-MOD-20021108-00207, SAT-MOD-20021108-00208, SAT-MOD-20021108-00209, SAT-MOD-20021108-00210, and SAT-MOD-20021108-00211, ARE GRANTED and the licenses for the AMC-1, AMC-2, AMC-3, AMC-4, AMC-5, AMC-6, AMC-7, and AMC-8 satellites ARE MODIFIED to

⁸⁸ See *Columbia Communications Corporation*, Order, 7 FCC Rcd 123-24.

⁸⁹ Satcom C-1 commenced operation on July 22, 1991, and its 10-year license term expired July 22, 2001. Satcom C-3 commenced operation on December 16, 1992, and its 10-year license term expired on December 16, 2002. Satcom C-4 commenced operation on October 16, 1992, its 10-year license term expired on October 16, 2002. Satcom SN-4 commenced operation in June 18, 1991, and its 10-year license term expired in June 18, 2001.

⁹⁰ See File Nos. SAT-STA-20030613-00106 (SatCom C-1); SAT-STA-20030610-00101 (SatCom C-3); SAT-STA-20030410-00063 (SatCom C-4); and SAT-STA-20030506-00082 (SatCom SN-4).

⁹¹ In its current filings, as well as in previous filings, SES AMERICOM has requested DTH authority for Satcom C-1 (see File No. SAT-STA-20021121-00223); Satcom C-3 (see File No. SAT-STA-20021121-00224); Satcom C-4 (see File No. SAT-STA-20021002-00185); and Satcom SN-4 (see File No. SAT-STA-20021025-00197).

⁹² See *supra* para. 18.

⁹³ See *supra* para. 24 and accompanying notes. Once the new rules become effective, the license term for Satcom C-1 will expire on July 22, 2006, the license term for Satcom C-3 will expire on December 16, 2007; the license term for Satcom C-4 will expire on October 17, 2007, and the license term for Satcom SN-4 will expire in June 18, 2006.

authorize SES AMERICOM to provide DTH services over these satellites and to classify the AMC-1 license as non-common carrier.

31. IT IS FURTHER ORDERED that Columbia's modification applications, File Nos. SAT-MOD-20021108-00216, SAT-MOD-20021108-00217, and SAT-MOD-20021108-00219 ARE GRANTED, and the licenses for the TDRS-6, AMC-12, and AMC-22 satellites ARE MODIFIED to authorize Columbia to provide DTH services over these satellites.

32. IT IS FURTHER ORDERED that SES AMERICOM's modification application, File No. SAT-MOD-20020628-00094, as amended, File No. SAT-AMD-20021108-00215, IS GRANTED and the license for the GSTAR 4 satellite IS MODIFIED to extend the license term to December 19, 2005, to authorize SES AMERICOM to provide DTH services over this satellite, and to classify the GSTAR 4 license as non-common carrier. File No. SAT-STA-20011211-00127 is hereby rendered MOOT.

33. IT IS FURTHER ORDERED that Columbia's modification application, File No. SAT-MOD-20020627-00095, as amended, File No. SAT-AMD-20021108-00218, IS GRANTED and the license for the TDRS-5 satellite IS MODIFIED to extend the license term to July 31, 2005 and to authorize Columbia to provide DTH services over this satellite. File No. SAT-STA-20011211-00131 is hereby rendered MOOT.

34. IT IS FURTHER ORDERED that Columbia's request for waiver of the frequency reuse requirements is granted subject to the conditions that Columbia shall be required to cease operation of its C-band capacity if the Commission finds that operation of another satellite facility complying with the full frequency reuse requirements would be incompatible with the operation of TDRS-5 on these frequencies.

35. IT IS FURTHER ORDERED that SES AMERICOM's applications for special temporary authority to provide DTH services, File Nos. SAT-STA-20030613-00106 and SAT-STA-20021121-00223; SAT-STA-20030610-00101 and SAT-STA-20021121-00224; SAT-STA-20030410-00063 and SAT-STA-20021002-00185; and SAT-STA-20030506-00082 and SAT-STA-20021025-00197 ARE GRANTED and SES AMERICOM is hereby authorized to provide DTH services over the Satcom C-1, Satcom C-3, Satcom C-4 and Satcom SN-4 satellites. Additionally, the SN-4 satellite is classified as non-common carrier.

36. IT IS FURTHER ORDERED that SES AMERICOM, Inc. and Columbia Communications Corporation will prepare any necessary submissions to the International Telecommunication Union (ITU) and to affected administrations for the completion of the appropriate coordination and notification of obligations for these space stations in accordance with the ITU Radio Regulations. No protection from interference caused by radio stations authorized by other Administrations is guaranteed unless coordination procedures are timely completed or, with respect to individual administrations, by successfully completing coordination agreements. Any radio station authorization for which coordination has not been completed may be the subject of additional terms and conditions as required to effect coordination of the frequency assignments of other Administrations. 47 C.F.R. § 25.111(b).

37. IT IS FURTHER ORDERED that the temporary assignment of any orbital location to SES AMERICOM, Inc. or Columbia Communications Corporation is subject to change by summary order of the Commission on 30 days notice and does not confer any permanent right to use the orbit and spectrum. Neither this authorization nor any right granted by the authorization shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, or by transfer of control of any corporation holding this authorization to any person except upon application to the Commission and

upon a finding by the Commission that the public interest, convenience and necessity will be served thereby.

38. IT IS FURTHER ORDERED that SES AMERICOM, Inc. and Columbia Communications Corporation have 30 days from the date of the release of this *Order and Authorization* to decline this authorization as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

39. This *Order and Authorization* is issued pursuant to Section 0.261 of the Commission's rules on delegations of authority, 47 C.F.R. § 0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau