

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

**COPY**

Intelsat North America LLC, )  
PanAmSat Licensee Corp., )  
PanAmSat H-2 Licensee Corp., )  
and Intelsat New Dawn Company, Ltd. )  
Annual Satellite Status Report )  
)

FILED/ACCEPTED

JUN 30 2010

Federal Communications Commission  
Office of the Secretary

**REQUEST FOR CONFIDENTIAL TREATMENT**

Intelsat North America LLC, PanAmSat Licensee Corp., PanAmSat H-2 Licensee Corp., and Intelsat New Dawn Company, Ltd. (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").<sup>1</sup> 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").<sup>2</sup>

Exemption 4 allows parties to withhold from public information "trade secrets and commercial or financial information obtained from any person and privileged or confidential-

**2010 Annual Report**

<sup>1</sup> 47 C.F.R. §§ 0.457, 0.459.

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

categories of materials not routinely available for public inspection.”<sup>3</sup> Applying Exemption 4, 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.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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

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<sup>3</sup> *Id.*

<sup>4</sup> *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).

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

<sup>6</sup> 47 C.F.R. § 0.457(d)(2).

available for service or not operating within parameters. These parts contain commercially sensitive information that falls within Exemption 4 of FOIA.

**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)<sup>7</sup>, 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.<sup>8</sup> 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."<sup>9</sup> 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

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<sup>7</sup> 47 C.F.R. § 25.210(l).

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

<sup>9</sup> *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)).

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.

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 WORLD SKIES, Eutelsat, Telesat, and Hispasat 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, except pursuant to a confidentiality agreement.

**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.,  
PanAmSat H-2 Licensee Corp.,  
and Intelsat New Dawn Company, Ltd.

By: */s/ Jennifer D. Hindin*

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Their Attorney

Dated: June 30, 2010

**Part 1**  
**Satellites Under Construction**

**Intelsat 17**

The Intelsat 17 spacecraft is a C/Ku band satellite with 24 C- and 25 Ku-band transponders under construction by Space Systems/Loral in Palo Alto, California. Single line flow testing commenced in January 2010 and the spacecraft is currently undergoing environmental tests. Construction completion is expected in the fourth quarter of 2010 and the satellite is scheduled to be launched on an Ariane 5 in the fourth quarter of 2010 or the first quarter of 2011.

**New Dawn**

The New Dawn spacecraft is a C/Ku band satellite with 14 C- and 16 Ku-band transponders under construction by Orbital Sciences Corporation in Dulles, Virginia. Single line flow testing commenced in April 2010 and the spacecraft is currently undergoing initial reference performance tests. Construction completion is expected in late 2010 with a launch scheduled on Ariane 5 in the first quarter of 2011.

**Intelsat 18**

The Intelsat 18 spacecraft is a C/Ku band satellite with 24 C- and 12 Ku-band transponders under construction by Orbital Sciences Corporation in Dulles, Virginia. The System Critical Design Review was held in August 2009. Bus and payload panel integration are well underway. Single line flow is scheduled to start in the third quarter of 2010, with environmental tests taking place in the second half of 2010. Construction completion is expected in the first quarter of 2011 with a launch scheduled on Land Launch in the first or second quarter of 2011.

**Intelsat 22**

The Intelsat 22 spacecraft is a C/Ku/UHF band satellite with 24 C-, 18 Ku-band and 18 UHF-band transponders under construction by Boeing Satellite Systems in El Segundo, California. The System Preliminary Design Review was held in October 2009 and the System Critical Design Review is scheduled for July 2010. Bus and payload modules integration and testing is planned to commence in the second half of 2010 and be completed during the first quarter of 2011. Single line activities, including environmental tests, are scheduled for the second, third and fourth quarter of 2011. Launch of the Intelsat 22 spacecraft is currently scheduled on a Proton launch vehicle in the first or second quarter of 2012.

**Intelsat 21**

The Intelsat 21 spacecraft is a C/Ku band satellite with 24 C- and 36 Ku-band transponders under construction by Boeing Satellite Systems in El Segundo, California. The System Preliminary Design Review was held in March 2010 and the System Critical Design Review is scheduled for the fourth quarter of 2010. Bus and payload modules integration and testing is planned for the second half of 2010 and the first half of 2011.

Single line activities, including environmental tests, are scheduled for the third and fourth quarter of 2011, as well as the first quarter of 2012. Launch of the Intelsat 21 spacecraft is currently scheduled on a Sea Launch vehicle in the second quarter of 2012.

**Intelsat 23**

The Intelsat 23 spacecraft is a C/Ku band satellite with 24 C- and 15 Ku-band transponders under construction by Orbital Sciences Corporation in Dulles, Virginia. The System Preliminary Design Review was held in April 2010 and the System Critical Design Review is currently planned for the fourth quarter of 2010. Bus and payload modules integration and testing is planned for the first half of 2011. Single line activities, including environmental tests, are scheduled for the second half of 2011. Launch of the Intelsat 23 spacecraft is currently scheduled on a Proton launch vehicle in the fourth quarter of 2011 or the first quarter of 2012.

**PUBLIC VERSION**

**THE CONTENTS OF THE**  
**ORIGINAL DOCUMENTS IN**  
**ATTACHMENTS 2 THROUGH 4**  
**ARE ENTIRELY BUSINESS**  
**PROPRIETARY/CONFIDENTIAL**  
**AND THE PAGES THEREIN HAVE**  
**BEEN REDACTED**

Part 2  
Non-Scheduled Transponder Outages

**PUBLIC VERSION**

**Business Proprietary Information Deleted**

Part 3  
Transponder Utilization

**PUBLIC VERSION**

**Business Proprietary Information Deleted**

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

**PUBLIC VERSION**

**Business Proprietary Information Deleted**