

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

In the Matter of	)	
	)	
COMSAT CORPORATION	)	Fee Control Nos.
	)	0109268835483010 <i>et al.</i>
Request for Reduction of Regulatory Fees	)	
For Fiscal Years 2001, 2000, and 1998	)	

**ORDER**

**Adopted: June 30, 2006**

**Released: July 7, 2006**

By the Commission: Commissioners Copps and Adelstein issuing separate statements.

1. In this Order we grant an application for review<sup>1</sup> filed by COMSAT Corporation (“COMSAT”),<sup>2</sup> and remand COMSAT’s request for reduction of regulatory fees for fiscal years (FY) 2001, 2000, and 1998 to the Office of the Managing Director (“OMD”) for further consideration consistent with this Order.<sup>3</sup>

2. In 1999, the United States Court of Appeals for the District of Columbia ruled that the Commission had not justified its practice of treating COMSAT as exempt from section 9 regulatory fees<sup>4</sup> with respect to satellites that COMSAT operated as a signatory to INTELSAT.<sup>5</sup> Pursuant to the court’s directive, the Commission held that COMSAT was required to pay section 9 regulatory fees as a geostationary satellite operator<sup>6</sup> and assessed the section 9 satellite fee

<sup>1</sup> COMSAT Corporation Request for Reduction of Regulatory Fees for FY 2001, 2002, and 1998, Application for Review, filed Dec. 15, 2003 (“Application for Review”).

<sup>2</sup> The application for review was filed by Lockheed Martin Corporation (“Lockheed Martin”), INTELSAT Global Service Corporation (“INTELSAT”), and COMSAT. Lockheed Martin and INTELSAT are successors in interest to COMSAT in this matter. Application for Review at 1.

<sup>3</sup> COMSAT’s application for review is from a ruling by OMD denying COMSAT’s request for reduction in regulatory fees. See Letter from Mark A. Reger, Chief Financial Officer to Robert A. Mansbach (Nov. 13, 2003) (“OMD Decision”).

<sup>4</sup> These fees are assessed pursuant to 47 U.S.C. § 159.

<sup>5</sup> *Panamsat v. FCC*, 198 F.3d 890 (D.C. Cir. 1999).

<sup>6</sup> *Assessment and Collection of Fees for Fiscal Year 2000*, 15 FCC Rcd 14478 (2000), *aff’d sub nom. COMSAT Corp. v. FCC*, 283 F.3d 344 (D.C. Cir. 2002) (“*COMSAT IP*”). See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, 16 FCC Rcd 13525 (2001), *recon. denied*, 18 FCC Rcd 6950 (2003).

against COMSAT for FYs 2000 and 2001.<sup>7</sup> Additionally, the Commission responded directly to the remand of the *Panamsat* case by assessing fees for FY 1998.<sup>8</sup> As a result of these actions, COMSAT paid approximately \$1.7 million for FY 2001; approximately \$1.6 million for FY 2000; and approximately \$1.9 million for FY 1998. COMSAT requested OMD to reduce COMSAT's liability for these fees.<sup>9</sup> OMD rejected the arguments advanced by COMSAT as a basis for a fee reduction.

3. In COMSAT's application for review before us, COMSAT contends, among other things, that OMD improperly ignored COMSAT's unique status as the signatory to INTELSAT.<sup>10</sup> COMSAT points out that the D.C. Circuit observed in 2002 that the regulatory fees imposed on COMSAT: "seem to bear no relation to the signatory-related costs that the Commission identified COMSAT as having created and that it has said it wishes to recover."<sup>11</sup> As a consequence, COMSAT argues, the Commission should reduce the fee assessed. We agree that OMD did not fully consider this issue and remand this matter to OMD for further consideration. This order addresses only COMSAT's Application for Review. As a result, we are not reviewing the question of whether flat, per-satellite fees are the proper way of implementing the section 9 regulatory fee requirements on this class of service provider.

4. ACCORDINGLY, IT IS ORDERED that the Application for Review, filed December 15, 2003, by COMSAT Corporation IS GRANTED and this matter IS REMANDED to the Office of the Managing Director for further consideration consistent with this ORDER.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>7</sup> On July 18, 2002, INTELSAT was succeeded by INTELSAT LLC, a privatized entity that became the licensee of the COMSAT satellites at issue. See *Lockheed Martin Corp.*, 18 FCC Rcd 16605, 16606-07, ¶¶ 2-3 (2003).

<sup>8</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, 18 FCC Rcd 6944 (2003), *aff'd sub nom. Panamsat v. FCC*, 370 F.3d 1168 (D.C. Cir. 2004).

<sup>9</sup> COMSAT paid no regulatory fees for FYs 1995, 1997, and 1999 based on the Commission's former view that COMSAT was exempt from the satellite fee. COMSAT paid a so-called "signatory fee" in FY 1996, which was subsequently refunded when the Court of Appeals found the fee unlawful.

<sup>10</sup> Application for Review at 7-16.

<sup>11</sup> *COMSAT II* at 349.

**CONCURRING STATEMENT OF  
COMMISSIONER JONATHAN ADELSTEIN**

*Re: COMSAT CORPORATION; Request for Reduction of Regulatory Fees For Fiscal Years 2001, 2000, and 1998; Fee Control Nos. 0109268835483010 et al.*

I am concurring in this Order, because it is not completely clear that it is necessary to overturn the 2003 Office of Managing Director (OMD) decision denying COMSAT's request for reduction in regulatory fees for fiscal years 2001, 2000, and 1998. Given the language of the D.C. Circuit in the COMSAT II ruling, though, I recognize that there is an interest in ensuring that the Commission's ultimate decision fully satisfies the concerns of the Court. I expect that this ultimate decision will be fully consistent with the regulatory fee approach that we have used in our previous regulatory fee orders and would be concerned if a revised fee for COMSAT strayed too far from these earlier Commission determinations.

**CONCURRING STATEMENT OF  
COMMISSIONER MICHAEL J. COPPS**

*Re: COMSAT CORPORATION; Request for Reduction of Regulatory Fees For Fiscal Years 2001, 2000, and 1998; Fee Control Nos. 0109268835483010 et al.*

I concur in today's decision because I believe it is a very close call whether the Office of the Managing Director's 2003 decision warrants reconsideration. Nevertheless, I recognize there is room for at least some additional factual analysis in order to address fully the D.C. Circuit's concern that our 1998, 2000, and 2001 COMSAT regulatory fees may not have been "well apportioned." I want to emphasize my belief that our ultimate resolution of this issue need not depart from the idea of a per-satellite regulatory fee for recovery of section 9 costs.