

**FCC REPORT TO CONGRESS
AS REQUIRED BY THE ORBIT ACT
EIGHTEENTH REPORT**

IB Docket No. 17-50 (Terminated)

Adopted: June 5, 2017

Released: June 8, 2017

By the Commission: Chairman Pai issuing a statement.

FCC REPORT TO CONGRESS AS REQUIRED BY THE ORBIT ACT EIGHTEENTH REPORT

I. INTRODUCTION

1. This report is submitted in accordance with Section 646 of the Open-Market Reorganization for the Betterment of International Telecommunications Act (ORBIT Act).¹ The ORBIT Act requires the Federal Communications Commission (Commission) to report annually to the Committees on Commerce and International Relations of the U.S. House of Representatives and the Committees on Commerce, Science, and Transportation and Foreign Relations of the U.S. Senate on the progress made to achieve the objectives of the statute.² The purpose of the ORBIT Act is “to promote a fully competitive global market for satellite communication services for the benefit of consumers and providers of satellite services and equipment by fully privatizing the intergovernmental satellite organizations, INTELSAT and Inmarsat.”³

2. Similar to prior reports, this report confirms the successful transition of INTELSAT and INMARSAT from intergovernmental organizations to the fully privatized entities Intelsat and Inmarsat.⁴ We note that the U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met in accordance with the ORBIT Act.

II. BACKGROUND

3. In 2000, the ORBIT Act required the Commission to: (1) mandate the privatization of INTELSAT⁵ and INMARSAT; (2) establish criteria to ensure a pro-competitive privatization; (3) determine whether INTELSAT, INMARSAT, and INTELSAT spin-off New Skies Satellites N.V. (New Skies)⁶ have been privatized in a manner that will not harm competition in the United States; (4) use the privatization criteria specified in the ORBIT Act as a basis for making its competition determination; and (5) “limit through conditions or deny” applications or requests to provide “non-core” services to, from, or within the United States, if it finds that competition will be harmed.⁷

¹ Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. No. 106-180, 114 Stat. 48 (2000), *as amended*, Pub. L. No. 107-233, 116 Stat. 1480 (2002), *as amended*, Pub. L. No. 108-228, 118 Stat. 644 (2004), *as amended*, Pub. L. No. 108-371, 118 Stat. 1752 (2004) (*2004 ORBIT Act Amendments*), *as amended*, Pub. L. No. 109-34, 119 Stat. 377 (2005) (*2005 ORBIT Act Amendment*), codified at 47 U.S.C. § 701 *et seq.*

² 47 U.S.C. § 765e. For previous ORBIT Act reports to Congress, please see the FCC’s website. Reports, [https://www.fcc.gov/reports-research/reports?field_report_series_tid\[0\]=1747](https://www.fcc.gov/reports-research/reports?field_report_series_tid[0]=1747).

³ 47 U.S.C. § 761 Note, Pub. L. 106-180, 114 Stat. 48 (2000).

⁴ *See, e.g., FCC Report to Congress as Required by the ORBIT Act*, Seventeenth Report, 31 FCC Rcd 7417 (2016) (*Seventeenth ORBIT Act Report*).

⁵ The intergovernmental satellite body INTELSAT later created Intelsat LLC, a privately-held U.S. entity that became the licensee of satellite assets formerly held by INTELSAT. As a result of an internal reorganization consummated in January 2011, Intelsat LLC was eliminated as a subsidiary company, and the majority of licenses are now held by Intelsat License LLC (Intelsat).

⁶ New Skies is the Netherlands-based INTELSAT spin-off, created as its first step toward privatization. The status of New Skies is summarized in the *Fourteenth ORBIT Act Report. FCC Report to Congress as Required by the ORBIT Act*, Report, 28 FCC Rcd 8587, 8600-01 (2013) (*Fourteenth ORBIT Act Report*).

⁷ The ORBIT Act defines “non-core” services as “services other than public-switched network voice telephony and occasional-use television” with respect to INTELSAT, and as “services other than global maritime distress and safety services or other existing maritime or aeronautical services for which there are not alternative providers” with respect to Inmarsat. 47 U.S.C. § 769(a)(11). Among other things, the ORBIT Act provides for certain exceptions to limitations on “non-core” services. 47 U.S.C. § 761.

4. The ORBIT Act also required this annual report.⁸ Specifically, it requires that the Commission report on the following: (1) progress with respect to each objective since the most recent preceding report; (2) views of the Parties with respect to privatization; (3) views of the industry and consumers on privatization; and (4) the impact that privatization has had on U.S. industry, jobs and industry's access to the global marketplace.⁹

5. With regard to privatization, in 1998, prior to the enactment of the ORBIT Act, INTELSAT divested five of its 24 satellites to New Skies.¹⁰ In 1999, INMARSAT converted from an intergovernmental organization to a private company, Inmarsat.¹¹ INTELSAT privatized and became a U.S. licensee as of July 18, 2001, transferring its assets to a commercial corporation.¹²

6. On June 15, 2000, the Commission submitted its first annual report to Congress on its actions to implement the ORBIT Act,¹³ and submitted annual reports every year since.¹⁴ Notably, the Commission acknowledged in several ORBIT Act reports that INTELSAT and INMARSAT successfully transitioned from intergovernmental organizations to fully privatized entities.¹⁵

7. In anticipation of this Eighteenth Report, the Commission issued a Public Notice on February 21, 2017 inviting comments related to the development of this report.¹⁶ No comments were filed.

⁸ 47 U.S.C. § 765e. In October 2004, Congress amended the ORBIT Act, adding Sections 621(5)(F) and (G), to provide a certification process as an alternative to the initial public offering (IPO) requirements under Sections 621(5)(A) and (B). In July 2005, Congress further amended the ORBIT Act, striking certain privatization criteria for INTELSAT separated entities, and removing certain restrictions on separated entities and successors to INTELSAT and for other purposes. 47 U.S.C. § 701 *et seq.*

⁹ 47 U.S.C. § 765e.

¹⁰ *See, e.g., Fourteenth ORBIT Act Report*, 28 FCC Rcd at 8600-01.

¹¹ *Id.* at 8596.

¹² *Id.* at 8591. As a result of privatization, and pursuant to international agreement, an intergovernmental organization known as the International Telecommunications Satellite Organization (ITSO) was created. ITSO, through a "Public Services Agreement" with Intelsat, monitors the performance of the company's public service obligations to maintain global connectivity and global coverage, provide non-discriminatory access to the system, and honor the lifeline connectivity obligation to certain customers, specifically, those customers in poor or underserved countries that have a high degree of dependence on Intelsat. *See INTELSAT Assembly of Parties Record of Decisions of the Twenty-Fifth (Extraordinary) Meeting*, AP-25-3E FINAL W/11/00, at paras. 6-8 (Nov. 27, 2000). Under these commitments, the privatized Intelsat made capacity available to lifeline users at fixed pre-privatization costs for approximately 12 years. ITSO has no operational or commercial role.

¹³ *FCC Report to Congress as Required by the ORBIT Act*, Report, 15 FCC Rcd 11288 (2000).

¹⁴ The Commission released its *Seventeenth ORBIT Act Report* in 2016, and in 2015 released its *Sixteenth ORBIT Act Report*, which also lists all prior reports. *Seventeenth ORBIT Act Report*, 31 FCC Rcd 7417; *FCC Report to Congress as Required by the ORBIT Act*, Sixteenth Report, 30 FCC Rcd 6644, 6646-47, n.11 (2015) (*Sixteenth ORBIT Act Report*).

¹⁵ *See, e.g., Sixteenth ORBIT Act Report* at 6646-47; *Seventeenth ORBIT Act Report* at 7418, para. 2.

¹⁶ *International Bureau Seeks Comment on the Next Orbit Act Report*, IB Docket No. 17-50, Public Notice, 32 FCC Rcd 1402 (IB 2017).

III. DISCUSSION

A. Progress on the Objectives and Purposes Since the *Seventeenth ORBIT Act Report*

8. The Commission took the following actions since the *Seventeenth ORBIT Act Report* to ensure that Intelsat, Inmarsat, and New Skies remain privatized in a pro-competitive manner, consistent with the privatization criteria of the ORBIT Act.¹⁷

1. Intelsat

9. Pursuant to U.S. obligations as the notifying administration to the International Telecommunication Union (ITU)¹⁸ for Intelsat's Fixed Satellite-Service (FSS) C- and Ku-band space station networks transferred at privatization, the Commission participated in a number of international satellite coordination negotiations as the licensing Administration for Intelsat. Since the *Seventeenth ORBIT Act Report*, the Commission participated in coordination meetings with Russia on behalf of Intelsat and a number of other U.S. licensees.

10. The United States also uses a separate process whereby U.S. operators may reach operational arrangements with operators of other Administrations. These operational arrangements are then submitted to the operators' respective Administrations for approval. Once approved by both Administrations, the operational arrangements become, or form the basis for, a coordination agreement between the Administrations under the ITU procedures. Since the *Seventeenth ORBIT Act Report*, Intelsat concluded operational arrangements with operators licensed by Brazil, Kazakhstan, Luxembourg, Netherlands, Papua New Guinea, Spain, and the United Kingdom. In due course, this process will lead to coordination agreements between the United States and the pertinent foreign Administrations.

11. Since the *Seventeenth ORBIT Act Report*, Intelsat filed a number of requests for license authorizations and modifications. The Commission reviewed these requests and acted on them consistent with the Commission's licensing rules and processes.¹⁹

¹⁷ 47 U.S.C. §§ 761, 763, 763a, 763c, and 765g.

¹⁸ As the Notifying Administration on behalf of Intelsat, the Commission is responsible for discharging the obligation undertaken in the Constitution of the ITU, in the Convention of the ITU, and in the Administrative regulations. Article 1, Section 1.2, ITU Radio Regulations.

¹⁹ See, e.g., All Mobile Video Inc., Application for Modification, IBFS File No. SES-MFS-20151217-00946 (grant of authority June 15, 2016); Intelsat License LLC, Application for Modification, IBFS File No. SES-MFS-20160614-00499 (grant of authority June 17, 2016); Panasonic Avionics Corporation, Application for Modification, IBFS File No. SES-MFS-20150609-00349 (grant of authority June 30, 2016); Harris CapRock Communications, Inc., Application for Modification, IBFS File No. SES-MFS-20160214-00134 (grant of authority July 7, 2016); Intelsat License LLC, Application for Modification, IBFS File No. SES-MFS-20160408-00325 (grant of authority July 13, 2016); Intelsat License LLC, Application for Modification, IBFS File No. SES-MFS-20160408-00326 (grant of authority July 13, 2016); Row 44 Inc., Application for Modification, IBFS File No. SES-MFS-20150928-00635 (grant of authority Aug. 19, 2016); Panasonic Avionics Corporation, Application for Modification, IBFS File No. SES-MFS-20160819-00730 (grant of authority Oct. 19, 2016); Intelsat License LLC, Application for Modification, IBFS File No. SES-MOD-20160712-00636 (grant of authority Oct. 25, 2016); Kratos RT Logic, Application for Authority, IBFS File No. SES-LIC-20160921-00798 (grant of authority Dec. 5, 2016); AC BidCo LLC, Application for Modification, IBFS File No. SES-MFS-20160824-00738 (grant of authority Dec. 13, 2016); Astronics AeroSat Corporation, Application for Modification, IBFS File No. SES-MFS-20161003-00823 (grant of authority Feb. 28, 2017); Intelsat License LLC, Application for Modification, IBFS File No. SES-MOD-20160620-00555 (grant of authority Mar. 31, 2017); Denali 20020, LLC, Application for Modification, IBFS File No. SES-MOD-20161215-00947 (grant of authority Mar. 13, 2017); MCI Communications Services, Inc., Application for Renewal, IBFS File No. SES-RWL-20170403-00347 (grant of authority Apr. 6, 2017).

2. Inmarsat

12. Since the *Seventeenth ORBIT Act Report*, the Commission granted several earth station applications to communicate with Inmarsat's satellites as points of communication.²⁰

3. New Skies

13. Since the last report, the Commission granted numerous earth stations specific authority to communicate with New Skies satellites.²¹

B. Views of the Parties, Industry and Consumers on Privatization

14. No parties filed comments in this docket. Inmarsat was the only entity that filed comments in the *Seventeenth ORBIT Act Report* proceeding. In that filing, Inmarsat stated that, in June 2005, the Commission found that Inmarsat had satisfied the requirement to effectuate a substantial dilution of former Signatory financial interests.²² Inmarsat further stated that it had completed a successful IPO, and its shares are traded on the London Stock Exchange.²³

C. Impact of Privatization on U.S. Industry, Jobs, and Industry Access to the Global Marketplace

1. Inmarsat

15. In broad terms, Inmarsat's current economic performance is consistent with the expectations of the ORBIT Act that privatization would foster competition in the global market for satellite communications services. The privatization of INMARSAT in 1999 from a non-profit intergovernmental organization altered its operating and investment incentives. The introduction of the profit motive provides an incentive for improved operating efficiency, e.g., reduction in costs, which increases profitability in both the short and longer term,²⁴ and for Inmarsat to introduce FSS satellite services in direct competition with Intelsat and other FSS satellite operators, which intensified competitive rivalry in this segment of the global satellite communications industry. Due to profit-oriented investment activities, privatized Inmarsat has invested steadily in new generations of spacecraft capable

²⁰ See, e.g., Comsat, Inc., Application for Modification, IBFS File No. SES-MFS-20160222-00152 (grant of authority June 27, 2016); ISAT US, Inc., Application for Modification, IBFS File No. SES-MFS-20160527-00458 (grant of authority July 18, 2016); Deere & Company, Application for Modification, IBFS File No. SES-MOD-20160602-00481 (grant of authority July 25, 2016); ISAT US Inc., Application for Modification, IBFS File No. SES-MOD-20160720-00669 (grant of authority Sept. 7, 2016); Comsat, Inc., Application for Modification, IBFS File No. SES-MOD-20161209-00941 (grant of authority Feb. 22, 2017).

²¹ See, e.g., All Mobile Video Inc., Application for Modification, IBFS File No. SES-MFS-20151217-00946 (grant of authority June 15, 2016); SES Americom, Inc., Application for Modification, IBFS File No. SES-MFS-20160624-00607 (grant of authority Aug. 23, 2016); Marlink, Inc., Application for Modification, IBFS File No. SES-MOD-20160630-00625 (grant of authority Sept. 23, 2016); UltiSat, Inc., Application for Authority, IBFS File No. SES-LIC-20160712-00644 (grant of authority Oct. 5, 2016); Panasonic Avionics Corporation, Application for Modification, IBFS File No. SES-MFS-20160819-00730 (grant of authority Oct. 19, 2016); Astronics AeroSat Corporation, Application for Modification, IBFS File No. SES-MFS-20161003-00823 (grant of authority Feb. 28, 2017); SES Americom Inc., Application for Renewal, IBFS File No. SES-RWL-20170224-00202 (grant of authority Feb. 24, 2017); Denali 20020, LLC, Application for Modification, IBFS File No. SES-MOD-20161215-00947 (grant of authority Mar. 13, 2017).

²² See *Seventeenth ORBIT Act Report*, 31 FCC Rcd at 7421, para. 14.

²³ *Id.*

²⁴ For a non-technical discussion of the effects of privatization on the operating efficiency of an enterprise, see John Vickers & George Yarrow, *Economic Perspectives on Privatization*, *The Journal of Economic Perspectives* 111-132, at 113-118 (Vol. 5, No. 2, Spring 1991). For a standard treatise on the economic effects of privatization, see John Vickers & George Yarrow, *Privatization: An Economic Analysis* (The MIT Press 1988).

of offering improved voice and data services to customers in the public sector, the maritime industry, and the aviation industry, among other industrial market segments.

16. In its comments filed in the prior proceeding, Inmarsat stated that, as the largest mobile satellite operator in the world, it provides critical services, for example, to military and civilian government agencies and the maritime and aviation communities that require access to ubiquitous, reliable, and secure communications.²⁵ Inmarsat added that it completed the I-4 satellite system, which is providing mobile satellite service (MSS) and FSS to the United States and globally through the Broadband Global Access Network (BGAN) system, but continues to adapt to support IP-based communications.²⁶ The I-4 system supports newer services such as FleetBroadband, a maritime service, and SwiftBroadband, an aeronautical service.²⁷ Inmarsat stated that it also continues to expand, for example, in the area of low data rate services to provide tracking, monitoring, and machine-to-machine (M2M) applications.²⁸ Inmarsat's Global Xpress high-speed Ka-band satellite broadband system also became fully operational in 2015.²⁹ These ongoing investments in innovative spacecraft capable of delivering improved satellite communications services reflects the profit incentives created by privatization and the stimulus for rivalrous behavior that privatization also creates. We remain of the view expressed in prior reports that the economic performance of Inmarsat following privatization is consistent with the goals of the ORBIT Act. Privatization has fostered a more competitive global satellite communications industry, encouraged new investment in improved spacecraft with enhanced technical capabilities, and provided commercial consumers with reliable, higher capacity satellite communications that are meeting the demand for modern broadband connectivity around the globe.

2. Intelsat and New Skies

17. We did not receive comments from Intelsat and New Skies. However, as the Commission has acknowledged in prior ORBIT Act reports, Intelsat successfully transitioned from an intergovernmental organization to a fully privatized entity, and that privatization enabled it to compete more effectively in providing services to U.S. commercial and governmental customers.³⁰ Privatization has enabled Intelsat to compete freely for U.S. satellite business opportunities, has led to more competitive choices in the U.S. market than existed before privatization, and continues to encourage the development of service offerings to U.S. customers.

IV. SUMMARY

18. Since the passage of the ORBIT Act, the Commission has undertaken a number of proceedings required by or related to the ORBIT Act. On the whole, we believe that U.S. policy goals regarding the promotion of a fully competitive global market for satellite communications services are being met in accordance with the ORBIT Act. The Commission will continue to inform Congress of the

²⁵ *Seventeenth ORBIT Act Report*, 31 FCC Rcd at 7421-22, para. 15.

²⁶ *Id.*

²⁷ See generally Inmarsat, <http://www.inmarsat.com/> (last visited May 9, 2017).

²⁸ *Seventeenth ORBIT Act Report*, 31 FCC Rcd at 7421-22, para. 15.

²⁹ Global Xpress is delivered through its Inmarsat-5 satellites, built by Boeing. The first Global Xpress satellite entered commercial service in July 2014, serving Europe, the Middle East, Africa, and Asia. The second satellite successfully launched from Kazakhstan in February 2015 to deliver regional services to the Americas and Atlantic Ocean region, and the third satellite in the constellation launched in August 2015 to cover the Pacific Ocean region. A fourth Global Xpress satellite will be launched in 2017 to provide additional capacity. See Inmarsat, Our satellites, <http://www.inmarsat.com/about-us/our-satellites/> (last visited May 4, 2017).

³⁰ See generally, *Seventeenth ORBIT Act Report*.

actions it takes to implement the requirements of the ORBIT Act and the impact of those actions in its next annual report.³¹

19. The adoption and release of this Report fulfills the Commission's obligation imposed by Section 646 of the ORBIT Act.³²

V. PROCEDURAL MATTERS

20. IT IS ORDERED that, pursuant to Section 646 of the Open-Market Reorganization for the Betterment of International Telecommunications Act,³³ this Report is ADOPTED, and IB Docket No. 17-50 is TERMINATED.

³¹ On January 23, 2017, the United States House of Representatives passed H.R. 599 to, among other things, consolidate certain Commission reporting obligations and repeal the ORBIT Act Report. Federal Communications Commission Consolidated Reporting Act of 2017, H.R.599, 115th Congress. On January 24, 2017, this bill was received in the Senate and referred to the Committee on Commerce, Science, and Transportation. On January 17, 2017, a companion bill, S.174, was introduced in the Senate that would also consolidate certain Commission reporting obligations and repeal the ORBIT Act Report. Federal Communications Commission Consolidated Reporting Act of 2017, S.174, 115th Congress. On May 11, 2017, S.174 was placed on the Senate Legislative Calendar under General Orders. While the Commission will continue to submit the annual report, we believe this report is no longer necessary in light of the successful privatization of INTELSAT and INMARSAT many years ago in a manner consistent with the ORBIT Act.

³² 47 U.S.C. § 701 *et seq.*

³³ *Id.*

**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Report to Congress Regarding the Open-Market Reorganization for the Betterment of International Telecommunications Act (ORBIT Act)*, IB Docket No. 17-50.

There's no need to reinvent the wheel. I've said it before, time¹ and again² and again³ and again.⁴

¹ Statement of Commissioner Ajit Pai, Fourteenth Orbit Act Report (2013), <http://go.usa.gov/chBuC>.

² Statement of Commissioner Ajit Pai, Fifteenth Orbit Act Report (2014), <http://go.usa.gov/chBuF>.

³ Statement of Commissioner Ajit Pai, Sixteenth Orbit Act Report (2015), <http://go.usa.gov/chBJT>.

⁴ Statement of Commissioner Ajit Pai, Seventeenth Orbit Act Report (2016), https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-73A2.pdf.