

106TH CONGRESS  
1ST SESSION

**S. 376**

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**AMENDMENT**

# ***In the House of Representatives, U. S.,***

*November 10, 1999.*

*Resolved, That the bill from the Senate (S. 376) entitled “An Act to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes”, do pass with the following*

## **AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Communications Sat-*  
3 *ellite Competition and Privatization Act of 1999”.*

4 ***SEC. 2. PURPOSE.***

5 *It is the purpose of this Act to promote a fully competi-*  
6 *tive global market for satellite communication services for*  
7 *the benefit of consumers and providers of satellite services*  
8 *and equipment by fully privatizing the intergovernmental*  
9 *satellite organizations, INTELSAT and Inmarsat.*

10 ***SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF***

11 ***1962.***

12 *The Communications Satellite Act of 1962 (47 U.S.C.*  
13 *101) is amended by adding at the end the following new*  
14 *title:*

1 **“TITLE VI—COMMUNICATIONS**  
2 **COMPETITION AND PRIVAT-**  
3 **IZATION**

4 **“Subtitle A—Actions To Ensure**  
5 **Procompetitive Privatization**

6 **“SEC. 601. FEDERAL COMMUNICATIONS COMMISSION**  
7 **LICENSING.**

8 *“(a) LICENSING FOR SEPARATED ENTITIES.—*

9 *“(1) COMPETITION TEST.—The Commission may*  
10 *not issue a license or construction permit to any sep-*  
11 *arated entity, or renew or permit the assignment or*  
12 *use of any such license or permit, or authorize the use*  
13 *by any entity subject to United States jurisdiction of*  
14 *any space segment owned, leased, or operated by any*  
15 *separated entity, unless the Commission determines*  
16 *that such issuance, renewal, assignment, or use will*  
17 *not harm competition in the telecommunications*  
18 *market of the United States. If the Commission does*  
19 *not make such a determination, it shall deny or re-*  
20 *voke authority to use space segment owned, leased, or*  
21 *operated by the separated entity to provide services to,*  
22 *from, or within the United States.*

23 *“(2) CRITERIA FOR COMPETITION TEST.—In*  
24 *making the determination required by paragraph (1),*  
25 *the Commission shall use the licensing criteria in sec-*

1        *tions 621 and 623, and shall not make such a deter-*  
2        *mination unless the Commission determines that the*  
3        *privatization of any separated entity is consistent*  
4        *with such criteria.*

5        *“(b) LICENSING FOR INTELSAT, INMARSAT, AND*  
6        *SUCCESSOR ENTITIES.—*

7                *“(1) COMPETITION TEST.—The Commission shall*  
8        *substantially limit, deny, or revoke the authority for*  
9        *any entity subject to United States jurisdiction to use*  
10        *space segment owned, leased, or operated by*  
11        *INTELSAT or Inmarsat or any successor entities to*  
12        *provide non-core services to, from, or within the*  
13        *United States, unless the Commission determines—*

14                *“(A) after April 1, 2001, in the case of*  
15        *INTELSAT and its successor entities, that*  
16        *INTELSAT and any successor entities have been*  
17        *privatized in a manner that will not harm com-*  
18        *petition in the telecommunications markets of*  
19        *the United States; or*

20                *“(B) after April 1, 2000, in the case of*  
21        *Inmarsat and its successor entities, that*  
22        *Inmarsat and any successor entities have been*  
23        *privatized in a manner that will not harm com-*  
24        *petition in the telecommunications markets of*  
25        *the United States.*

1           “(2) *CRITERIA FOR COMPETITION TEST.*—In  
2           *making the determination required by paragraph (1),*  
3           *the Commission shall use the licensing criteria in sec-*  
4           *tions 621, 622, and 624, and shall not make such a*  
5           *determination unless the Commission determines that*  
6           *such privatization is consistent with such criteria.*

7           “(3) *CLARIFICATION: COMPETITIVE SAFE-*  
8           *GUARDS.*—In making its licensing decisions under  
9           *this subsection, the Commission shall consider whether*  
10           *users of non-core services provided by INTELSAT or*  
11           *Inmarsat or successor or separated entities are able to*  
12           *obtain non-core services from providers offering serv-*  
13           *ices other than through INTELSAT or Inmarsat or*  
14           *successor or separated entities, at competitive rates,*  
15           *terms, or conditions. Such consideration shall also in-*  
16           *clude whether such licensing decisions would require*  
17           *users to replace equipment at substantial costs prior*  
18           *to the termination of its design life. In making its li-*  
19           *censing decisions, the Commission shall also consider*  
20           *whether competitive alternatives in individual mar-*  
21           *kets do not exist because they have been foreclosed due*  
22           *to anticompetitive actions undertaken by or resulting*  
23           *from the INTELSAT or Inmarsat systems. Such li-*  
24           *censing decisions shall be made in a manner which*

1       *facilitates achieving the purposes and goals in this*  
2       *title and shall be subject to notice and comment.*

3       “(c) *ADDITIONAL CONSIDERATIONS IN DETERMINA-*  
4       *TIONS.—In making its determinations and licensing deci-*  
5       *sions under subsections (a) and (b), the Commission shall*  
6       *take into consideration the United States obligations and*  
7       *commitments for satellite services under the Fourth Protocol*  
8       *to the General Agreement on Trade in Services.*

9       “(d) *INDEPENDENT FACILITIES COMPETITION.—Noth-*  
10       *ing in this section shall be construed as precluding COM-*  
11       *SAT from investing in or owning satellites or other facili-*  
12       *ties independent from INTELSAT and Inmarsat, and suc-*  
13       *cessor or separated entities, or from providing services*  
14       *through reselling capacity over the facilities of satellite sys-*  
15       *tems independent from INTELSAT and Inmarsat, and suc-*  
16       *cessor or separated entities. This subsection shall not be con-*  
17       *strued as restricting the types of contracts which can be exe-*  
18       *cuted or services which may be provided by COMSAT over*  
19       *the independent satellites or facilities described in this sub-*  
20       *section.*

21       **“SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.**

22       “(a) *REQUIRED ACTIONS.—Unless, in a proceeding*  
23       *under section 601(b), the Commission determines that*  
24       *INTELSAT or Inmarsat have been privatized in a manner*  
25       *that will not harm competition, then—*

1           “(1) the President shall oppose, and the Commis-  
2           sion shall not assist, any registration for new orbital  
3           locations for INTELSAT or Inmarsat—

4                   “(A) with respect to INTELSAT, after  
5                   April 1, 2001; and

6                   “(B) with respect to Inmarsat, after April  
7                   1, 2000; and

8           “(2) the President and Commission shall, con-  
9           sistent with the deadlines in paragraph (1), take all  
10           other necessary measures to preclude procurement,  
11           registration, development, or use of new satellites  
12           which would provide non-core services.

13           “(b) EXCEPTION.—

14                   “(1) REPLACEMENT AND PREVIOUSLY CON-  
15                   TRACTED SATELLITES.—Subsection (a) shall not  
16                   apply to—

17                           “(A) orbital locations for replacement sat-  
18                           ellites (as described in section 622(2)(B)); and

19                           “(B) orbital locations for satellites that are  
20                           contracted for as of March 25, 1998, if such sat-  
21                           ellites do not provide additional services.

22                   “(2) LIMITATION ON EXCEPTION.—Paragraph  
23                   (1) is available only with respect to satellites designed  
24                   to provide services solely in the C and Ku for  
25                   INTELSAT, and L for Inmarsat bands.

1 **“SEC. 603. ADDITIONAL SERVICES AUTHORIZED.**

2       “(a) *SERVICES AUTHORIZED DURING CONTINUED*  
3 *PROGRESS.*—

4               “(1) *CONTINUED AUTHORIZATION.*—*The Com-*  
5 *mission may issue an authorization, license, or per-*  
6 *mit to, or renew the license or permit of, any provider*  
7 *of services using INTELSAT or Inmarsat space seg-*  
8 *ment, or authorize the use of such space segment, for*  
9 *additional services (including additional applications*  
10 *of existing services) or additional areas of business,*  
11 *subject to the requirements of this section.*

12               “(2) *ADDITIONAL SERVICES PERMITTED UNDER*  
13 *NEW CONTRACTS UNLESS PROGRESS FAILS.*—*If the*  
14 *Commission makes a finding under subsection (b)*  
15 *that conditions required by such subsection have not*  
16 *been attained, the Commission may not, pursuant to*  
17 *paragraph (1), permit such additional services to be*  
18 *provided directly or indirectly under new contracts*  
19 *for the use of INTELSAT or Inmarsat space segment,*  
20 *unless and until the Commission subsequently makes*  
21 *a finding under such subsection that such conditions*  
22 *have been attained.*

23               “(3) *PREVENTION OF EVASION.*—*The Commis-*  
24 *sion shall, by rule, prescribe means reasonably de-*  
25 *signed to prevent evasions of the limitations con-*  
26 *tained in paragraph (2) by customers who did not*

1     *use specific additional services as of the date of the*  
2     *Commission’s most recent finding under subsection*  
3     *(b) that the conditions of such subsection have not*  
4     *been obtained.*

5     “(b) *REQUIREMENTS FOR ANNUAL FINDINGS.*—

6             “(1) *GENERAL REQUIREMENTS.*—*The findings*  
7     *required under this subsection shall be made, after no-*  
8     *tice and comment, on or before January 1 of 2000,*  
9     *2001, and 2002. The Commission shall find that the*  
10    *conditions required by this subsection have been at-*  
11    *tained only if the Commission finds that—*

12             “(A) *substantial and material progress has*  
13    *been made during the preceding period at a rate*  
14    *and manner that is probable to result in achiev-*  
15    *ing pro-competitive privatizations in accordance*  
16    *with the requirements of this title; and*

17             “(B) *neither INTELSAT nor Inmarsat are*  
18    *hindering competitors’ or potential competitors’*  
19    *access to the satellite services marketplace.*

20             “(2) *FIRST FINDING.*—*In making the finding re-*  
21    *quired to be made on or before January 1, 2000, the*  
22    *Commission shall not find that the conditions re-*  
23    *quired by this subsection have been attained unless*  
24    *the Commission finds that—*

1           “(A) COMSAT has submitted to the  
2           INTELSAT Board of Governors a resolution  
3           calling for the pro-competitive privatization of  
4           INTELSAT in accordance with the requirements  
5           of this title;

6           “(B) the United States has submitted such  
7           resolution at the first INTELSAT Assembly of  
8           Parties meeting that takes place after such date  
9           of enactment; and

10           “(C) the INTELSAT Assembly of Parties  
11           has created a working party to consider and  
12           make recommendations for the pro-competitive  
13           privatization of INTELSAT consistent with such  
14           resolution.

15           “(3) SECOND ANNUAL FINDING.—In making the  
16           finding required to be made on or before January 1,  
17           2001, the Commission shall not find that the condi-  
18           tions required by this subsection have been attained  
19           unless the INTELSAT Assembly of Parties has ap-  
20           proved a recommendation for the pro-competitive pri-  
21           vatization of INTELSAT in accordance with the re-  
22           quirements of this title.

23           “(4) THIRD ANNUAL FINDING.—In making the  
24           finding required to be made on or before January 1,  
25           2002, the Commission shall not find that the condi-

1        *tions required by this subsection have been attained*  
 2        *unless the pro-competitive privatization of*  
 3        *INTELSAT in accordance with the requirements of*  
 4        *this title has been achieved by such date.*

5                *“(5) CRITERIA FOR EVALUATION OF HINDERING*  
 6        *ACCESS.—The Commission shall not make a deter-*  
 7        *mination under paragraph (1)(B) unless the Commis-*  
 8        *sion determines that INTELSAT and Inmarsat are*  
 9        *not in any way impairing, delaying, or denying ac-*  
 10        *cess to national markets or orbital locations.*

11                *“(c) EXCEPTION FOR SERVICES UNDER EXISTING*  
 12        *CONTRACTS IF PROGRESS NOT MADE.—This section shall*  
 13        *not preclude INTELSAT or Inmarsat or any signatory*  
 14        *thereof from continuing to provide additional services under*  
 15        *an agreement with any third party entered into prior to*  
 16        *any finding under subsection (b) that the conditions of such*  
 17        *subsection have not been attained.*

18        **“Subtitle B—Federal Communica-**  
 19        **tions Commission Licensing Cri-**  
 20        **teria: Privatization Criteria**

21        **“SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COMPETI-**  
 22                **TIVE PRIVATIZATION OF INTELSAT AND**  
 23                **INMARSAT.**

24                *“The President and the Commission shall secure a pro-*  
 25        *competitive privatization of INTELSAT and Inmarsat that*

1 *meets the criteria set forth in this section and sections 622*  
2 *through 624. In securing such privatizations, the following*  
3 *criteria shall be applied as licensing criteria for purposes*  
4 *of subtitle A:*

5           “(1) *DATES FOR PRIVATIZATION.—Privatization*  
6 *shall be obtained in accordance with the criteria of*  
7 *this title of—*

8                   “(A) *INTELSAT as soon as practicable, but*  
9 *no later than April 1, 2001; and*

10                   “(B) *Inmarsat as soon as practicable, but*  
11 *no later than April 1, 2000.*

12           “(2) *INDEPENDENCE.—The successor entities and*  
13 *separated entities of INTELSAT and Inmarsat re-*  
14 *sulting from the privatization obtained pursuant to*  
15 *paragraph (1) shall—*

16                   “(A) *be entities that are national corpora-*  
17 *tions; and*

18                   “(B) *have ownership and management that*  
19 *is independent of—*

20                           “(i) *any signatories or former signato-*  
21 *ries that control access to national tele-*  
22 *communications markets; and*

23                           “(ii) *any intergovernmental organiza-*  
24 *tion remaining after the privatization.*

1           “(3) *TERMINATION OF PRIVILEGES AND IMMUNI-*  
2           *TIES.—The preferential treatment of INTELSAT and*  
3           *Inmarsat shall not be extended to any successor entity*  
4           *or separated entity of INTELSAT or Inmarsat. Such*  
5           *preferential treatment includes—*

6                     “(A) *privileged or immune treatment by*  
7                     *national governments;*

8                     “(B) *privileges or immunities or other com-*  
9                     *petitive advantages of the type accorded*  
10                    *INTELSAT and Inmarsat and their signatories*  
11                    *through the terms and operation of the*  
12                    *INTELSAT Agreement and the associated Head-*  
13                    *quarters Agreement and the Inmarsat Conven-*  
14                    *tion; and*

15                    “(C) *preferential access to orbital locations,*  
16                    *including any access to orbital locations that is*  
17                    *not subject to the legal or regulatory processes of*  
18                    *a national government that applies due diligence*  
19                    *requirements intended to prevent the*  
20                    *warehousing of orbital locations.*

21           “(4) *PREVENTION OF EXPANSION DURING TRAN-*  
22           *SITION.—During the transition period prior to full*  
23           *privatization, INTELSAT and Inmarsat shall be pre-*  
24           *cluded from expanding into additional services (in-*

1 *cluding additional applications of existing services)*  
2 *or additional areas of business.*

3 *“(5) CONVERSION TO STOCK CORPORATIONS.—*  
4 *Any successor entity or separated entity created out*  
5 *of INTELSAT or Inmarsat shall be a national cor-*  
6 *poration established through the execution of an ini-*  
7 *tial public offering as follows:*

8 *“(A) Any successor entities and separated*  
9 *entities shall be incorporated as private corpora-*  
10 *tions subject to the laws of the nation in which*  
11 *incorporated.*

12 *“(B) An initial public offering of securities*  
13 *of any successor entity or separated entity shall*  
14 *be conducted no later than—*

15 *“(i) April 1, 2001, for the successor en-*  
16 *tities of INTELSAT; and*

17 *“(ii) April 1, 2000, for the successor*  
18 *entities of Inmarsat.*

19 *“(C) The shares of any successor entities*  
20 *and separated entities shall be listed for trading*  
21 *on one or more major stock exchanges with*  
22 *transparent and effective securities regulation.*

23 *“(D) A majority of the board of directors of*  
24 *any successor entity or separated entity shall not*

1           *be subject to selection or appointment by, or oth-*  
2           *erwise serve as representatives of—*

3                   “(i) *any signatory or former signatory*  
4                   *that controls access to national tele-*  
5                   *communications markets; or*

6                   “(ii) *any intergovernmental organiza-*  
7                   *tion remaining after the privatization.*

8                   “(E) *Any transactions or other relation-*  
9                   *ships between or among any successor entity,*  
10                  *separated entity, INTELSAT, or Inmarsat shall*  
11                  *be conducted on an arm’s length basis.*

12                  “(6) *REGULATORY TREATMENT.—Any successor*  
13                  *entity or separated entity shall apply through the ap-*  
14                  *propriate national licensing authorities for inter-*  
15                  *national frequency assignments and associated orbital*  
16                  *registrations for all satellites.*

17                  “(7) *COMPETITION POLICIES IN DOMICILIARY*  
18                  *COUNTRY.—Any successor entity or separated entity*  
19                  *shall be incorporated and headquartered in a nation*  
20                  *or nations that—*

21                       “(A) *have effective laws and regulations*  
22                       *that secure competition in telecommunications*  
23                       *services;*

1           “(B) are signatories of the World Trade Or-  
2           ganization Basic Telecommunications Services  
3           Agreement; and

4           “(C) have a schedule of commitments in  
5           such Agreement that includes non-discriminatory  
6           market access to their satellite markets.

7           “(8) RETURN OF UNUSED ORBITAL LOCA-  
8           TIONS.—INTELSAT, Inmarsat, and any successor  
9           entities and separated entities shall not be permitted  
10          to warehouse any orbital location that—

11           “(A) as of March 25, 1998, did not contain  
12           a satellite that was providing commercial serv-  
13           ices, or, subsequent to such date, ceased to con-  
14           tain a satellite providing commercial services; or

15           “(B) as of March 25, 1998, was not des-  
16           ignated in INTELSAT or Inmarsat operational  
17           plans for satellites for which construction con-  
18           tracts had been executed.

19          Any such orbital location of INTELSAT or Inmarsat  
20          and of any successor entities and separated entities  
21          shall be returned to the International Telecommuni-  
22          cation Union for reallocation.

23           “(9) APPRAISAL OF ASSETS.—Before any trans-  
24           fer of assets by INTELSAT or Inmarsat to any suc-  
25           cessor entity or separated entity, such assets shall be

1 *independently audited for purposes of appraisal, at*  
 2 *both book and fair market value.*

3 “(10) *LIMITATION ON INVESTMENT.*—*Notwith-*  
 4 *standing the provisions of this title, COMSAT shall*  
 5 *not be authorized by the Commission to invest in a*  
 6 *satellite known as K-TV, unless Congress authorizes*  
 7 *such investment.*

8 **“SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.**

9 *“In securing the privatizations required by section*  
 10 *621, the following additional criteria with respect to*  
 11 *INTELSAT privatization shall be applied as licensing cri-*  
 12 *teria for purposes of subtitle A:*

13 “(1) *NUMBER OF COMPETITORS.*—*The number of*  
 14 *competitors in the markets served by INTELSAT, in-*  
 15 *cluding the number of competitors created out of*  
 16 *INTELSAT, shall be sufficient to create a fully com-*  
 17 *petitive market.*

18 “(2) *PREVENTION OF EXPANSION DURING TRAN-*  
 19 *SITION.*—

20 “(A) *IN GENERAL.*—*Pending privatization*  
 21 *in accordance with the criteria in this title,*  
 22 *INTELSAT shall not expand by receiving addi-*  
 23 *tional orbital locations, placing new satellites in*  
 24 *existing locations, or procuring new or addi-*  
 25 *tional satellites except as permitted by subpara-*

1           *graph (B), and the United States shall oppose*  
2           *such expansion—*

3                   “(i) *in INTELSAT, including at the*  
4                   *Assembly of Parties;*

5                   “(ii) *in the International Tele-*  
6                   *communication Union;*

7                   “(iii) *through United States instruc-*  
8                   *tions to COMSAT;*

9                   “(iv) *in the Commission, through de-*  
10                  *clining to facilitate the registration of addi-*  
11                  *tional orbital locations or the provision of*  
12                  *additional services (including additional*  
13                  *applications of existing services) or addi-*  
14                  *tional areas of business; and*

15                  “(v) *in other appropriate fora.*

16                  “(B) *EXCEPTION FOR CERTAIN REPLACE-*  
17                  *MENT SATELLITES.—The limitations in subpara-*  
18                  *graph (A) shall not apply to any replacement*  
19                  *satellites if—*

20                       “(i) *such replacement satellite is used*  
21                       *solely to provide public-switched network*  
22                       *voice telephony or occasional-use television*  
23                       *services, or both;*

24                       “(ii) *such replacement satellite is pro-*  
25                       *cured pursuant to a construction contract*

1           that was executed on or before March 25,  
2           1998; and

3                   “(iii) construction of such replacement  
4           satellite commences on or before the final  
5           date for INTELSAT privatization set forth  
6           in section 621(1)(A).

7                   “(3) *TECHNICAL COORDINATION AMONG SIGNATO-*  
8           *RIES.—Technical coordination shall not be used to*  
9           *impair competition or competitors, and coordination*  
10          *under Article XIV(d) of the INTELSAT Agreement*  
11          *shall be eliminated.*

12          **“SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED**  
13                   **ENTITIES.**

14                   *“In securing the privatizations required by section*  
15          *621, the following additional criteria with respect to any*  
16          *INTELSAT separated entity shall be applied as licensing*  
17          *criteria for purposes of subtitle A:*

18                   “(1) *DATE FOR PUBLIC OFFERING.—Within one*  
19          *year after any decision to create any separated enti-*  
20          *ty, a public offering of the securities of such entity*  
21          *shall be conducted.*

22                   “(2) *PRIVILEGES AND IMMUNITIES.—The privi-*  
23          *leges and immunities of INTELSAT and its signato-*  
24          *ries shall be waived with respect to any transactions*  
25          *with any separated entity, and any limitations on*

1       *private causes of action that would otherwise gen-*  
2       *erally be permitted against any separated entity shall*  
3       *be eliminated.*

4               “(3) *INTERLOCKING DIRECTORATES OR EMPLOY-*  
5       *EES.—None of the officers, directors, or employees of*  
6       *any separated entity shall be individuals who are of-*  
7       *ficers, directors, or employees of INTELSAT.*

8               “(4) *SPECTRUM ASSIGNMENTS.—After the initial*  
9       *transfer which may accompany the creation of a sep-*  
10       *arated entity, the portions of the electromagnetic spec-*  
11       *trum assigned as of the date of the enactment of this*  
12       *title to INTELSAT shall not be transferred between*  
13       *INTELSAT and any separated entity.*

14               “(5) *REAFFILIATION PROHIBITED.—Any merger*  
15       *or ownership or management ties or exclusive ar-*  
16       *rangements between a privatized INTELSAT or any*  
17       *successor entity and any separated entity shall be*  
18       *prohibited until 15 years after the completion of*  
19       *INTELSAT privatization under this title.*

20       **“SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.**

21               *“In securing the privatizations required by section*  
22       *621, the following additional criteria with respect to*  
23       *Inmarsat privatization shall be applied as licensing cri-*  
24       *teria for purposes of subtitle A:*

1           “(1) *MULTIPLE SIGNATORIES AND DIRECT AC-*  
2           *CESS.—Multiple signatories and direct access to*  
3           *Inmarsat shall be permitted.*

4           “(2) *PREVENTION OF EXPANSION DURING TRAN-*  
5           *SITION.—Pending privatization in accordance with*  
6           *the criteria in this title, Inmarsat should not expand*  
7           *by receiving additional orbital locations, placing new*  
8           *satellites in existing locations, or procuring new or*  
9           *additional satellites, except for specified replacement*  
10           *satellites for which construction contracts have been*  
11           *executed as of March 25, 1998, and the United States*  
12           *shall oppose such expansion—*

13                   “(A) *in Inmarsat, including at the Council*  
14                   *and Assembly of Parties;*

15                   “(B) *in the International Telecommuni-*  
16                   *cation Union;*

17                   “(C) *through United States instructions to*  
18                   *COMSAT;*

19                   “(D) *in the Commission, through declining*  
20                   *to facilitate the registration of additional orbital*  
21                   *locations or the provision of additional services*  
22                   *(including additional applications of existing*  
23                   *services) or additional areas of business; and*

24                   “(E) *in other appropriate fora.*

1        *This paragraph shall not be construed as limiting the*  
2        *maintenance, assistance or improvement of the*  
3        *GMDSS.*

4            *“(3) NUMBER OF COMPETITORS.—The number of*  
5        *competitors in the markets served by Inmarsat, in-*  
6        *cluding the number of competitors created out of*  
7        *Inmarsat, shall be sufficient to create a fully competi-*  
8        *tive market.*

9            *“(4) REAFFILIATION PROHIBITED.—Any merger*  
10       *or ownership or management ties or exclusive ar-*  
11       *rangements between Inmarsat or any successor entity*  
12       *or separated entity and ICO shall be prohibited until*  
13       *15 years after the completion of Inmarsat privatiza-*  
14       *tion under this title.*

15           *“(5) INTERLOCKING DIRECTORATES OR EMPLOY-*  
16       *EES.—None of the officers, directors, or employees of*  
17       *Inmarsat or any successor entity or separated entity*  
18       *shall be individuals who are officers, directors, or em-*  
19       *ployees of ICO.*

20           *“(6) SPECTRUM ASSIGNMENTS.—The portions of*  
21       *the electromagnetic spectrum assigned as of the date*  
22       *of the enactment of this title to Inmarsat—*

23           *“(A) shall, after January 1, 2006, or the*  
24       *date on which the life of the current generation*  
25       *of Inmarsat satellites ends, whichever is later, be*

1           *made available for assignment to all systems (in-*  
 2           *cluding the privatized Inmarsat) on a non-*  
 3           *discriminatory basis and in a manner in which*  
 4           *continued availability of the GMDSS is pro-*  
 5           *vided; and*

6                     *“(B) shall not be transferred between*  
 7           *Inmarsat and ICO.*

8                     *“(7) PRESERVATION OF THE GMDSS.—The*  
 9           *United States shall seek to preserve space segment ca-*  
 10          *capacity of the GMDSS.*

11   **“SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVATIZA-**  
 12                     **TION.**

13                     *“(a) NTIA DETERMINATION.—*

14                     *“(1) DETERMINATION REQUIRED.—Within 180*  
 15          *days after the date of the enactment of this section,*  
 16          *the Secretary of Commerce shall, through the Assist-*  
 17          *ant Secretary for Communications and Information,*  
 18          *transmit to the Commission—*

19                     *“(A) a list of Member countries of*  
 20          *INTELSAT and Inmarsat that are not Members*  
 21          *of the World Trade Organization and that im-*  
 22          *pose barriers to market access for private sat-*  
 23          *ellite systems; and*

24                     *“(B) a list of Member countries of*  
 25          *INTELSAT and Inmarsat that are not Members*

1           *of the World Trade Organization and that are*  
2           *not supporting pro-competitive privatization of*  
3           *INTELSAT and Inmarsat.*

4           “(2) *CONSULTATION.—The Secretary’s deter-*  
5           *minations under paragraph (1) shall be made in con-*  
6           *sultation with the Federal Communications Commis-*  
7           *sion, the Secretary of State, and the United States*  
8           *Trade Representative, and shall take into account the*  
9           *totality of a country’s actions in all relevant fora, in-*  
10          *cluding the Assemblies of Parties of INTELSAT and*  
11          *Inmarsat.*

12          “(b) *IMPOSITION OF COST-BASED SETTLEMENT*  
13          *RATE.—Notwithstanding—*

14                 “(1) *any higher settlement rate that an overseas*  
15                 *carrier charges any United States carrier to originate*  
16                 *or terminate international message telephone services;*  
17                 *and*

18                 “(2) *any transition period that would otherwise*  
19                 *apply,*

20          *the Commission may by rule prohibit United States car-*  
21          *riers from paying an amount in excess of a cost-based settle-*  
22          *ment rate to overseas carriers in countries listed by the*  
23          *Commission pursuant to subsection (a).*

24          “(c) *SETTLEMENTS POLICY.—The Commission shall,*  
25          *in exercising its authority to establish settlements rates for*

1 *United States international common carriers, seek to ad-*  
2 *vance United States policy in favor of cost-based settlements*  
3 *in all relevant fora on international telecommunications*  
4 *policy, including in meetings with parties and signatories*  
5 *of INTELSAT and Inmarsat.*

6       **“Subtitle C—Deregulation and**  
7               **Other Statutory Changes**

8       **“SEC. 641. ACCESS TO INTELSAT.**

9           “(a) *ACCESS PERMITTED.*—Beginning on the date of  
10 *the enactment of this title, users or providers of tele-*  
11 *communications services shall be permitted to obtain direct*  
12 *access to INTELSAT telecommunications services and*  
13 *space segment capacity through purchases of such capacity*  
14 *or services from, or through investment in, INTELSAT.*

15           “(b) *RULEMAKING.*—Within 180 days after the date  
16 *of the enactment of this title, the Commission shall complete*  
17 *a rulemaking, with notice and opportunity for submission*  
18 *of comment by interested persons, to determine if users or*  
19 *providers of telecommunications services have sufficient op-*  
20 *portunity to access INTELSAT space segment capacity di-*  
21 *rectly from INTELSAT to meet their service or capacity*  
22 *requirements. If the Commission determines that such op-*  
23 *portunity to access does not exist, the Commission shall take*  
24 *appropriate action to facilitate such direct access pursuant*  
25 *to its authority under this Act and the Communications*

1 *Act of 1934. The Commission shall take such steps as may*  
2 *be necessary to prevent the circumvention of the intent of*  
3 *this section.*

4 “(c) *CONTRACT PRESERVATION.*—*Nothing in this sec-*  
5 *tion shall be construed to permit the abrogation or modi-*  
6 *fication of any contract.*

7 “**SEC. 642. SIGNATORY ROLE.**

8 “(a) *LIMITATIONS ON SIGNATORIES.*—

9 “(1) *NATIONAL SECURITY LIMITATIONS.*—*The*  
10 *Federal Communications Commission, after a public*  
11 *interest determination, in consultation with the exec-*  
12 *utive branch, may restrict foreign ownership of a*  
13 *United States signatory if the Commission determines*  
14 *that not to do so would constitute a threat to national*  
15 *security.*

16 “(2) *NO SIGNATORIES REQUIRED.*—*The United*  
17 *States Government shall not require signatories to*  
18 *represent the United States in INTELSAT or*  
19 *Inmarsat or in any successor entities after a pro-com-*  
20 *petitive privatization is achieved consistent with sec-*  
21 *tions 621, 622, and 624.*

22 “(b) *CLARIFICATION OF PRIVILEGES AND IMMUNITIES*  
23 *OF COMSAT.*—

24 “(1) *GENERALLY NOT IMMUNIZED.*—*Notwith-*  
25 *standing any other law or executive agreement, COM-*

1       *SAT shall not be entitled to any privileges or immu-*  
2       *nities under the laws of the United States or any*  
3       *State on the basis of its status as a signatory of*  
4       *INTELSAT or Inmarsat.*

5               “(2) *LIMITED IMMUNITY.*—*COMSAT and any*  
6       *other company functioning as United States signa-*  
7       *tory to INTELSAT or Inmarsat shall not be liable for*  
8       *action taken by it in carrying out the specific, writ-*  
9       *ten instruction of the United States issued in connec-*  
10       *tion with its relationships and activities with foreign*  
11       *governments, international entities, and the intergov-*  
12       *ernmental satellite organizations.*

13               “(3) *PROVISIONS PROSPECTIVE.*—*Paragraph (1)*  
14       *shall not apply with respect to liability for any ac-*  
15       *tion taken by COMSAT before the date of the enact-*  
16       *ment of the Communications Satellite Competition*  
17       *and Privatization Act of 1999.*

18               “(c) *PARITY OF TREATMENT.*—*Notwithstanding any*  
19       *other law or executive agreement, the Commission shall have*  
20       *the authority to impose similar regulatory fees on the*  
21       *United States signatory which it imposes on other entities*  
22       *providing similar services.*

23       **“SEC. 643. ELIMINATION OF PROCUREMENT PREFERENCES.**

24               *“Nothing in this title or the Communications Act of*  
25       *1934 shall be construed to authorize or require any pref-*

1 erence, in Federal Government procurement of tele-  
2 communications services, for the satellite space segment pro-  
3 vided by INTELSAT, Inmarsat, or any successor entity or  
4 separated entity.

5 **“SEC. 644. USE OF ITU TECHNICAL COORDINATION.**

6       *“The Commission and United States satellite compa-  
7 nies shall utilize the International Telecommunication  
8 Union procedures for technical coordination with  
9 INTELSAT and its successor entities and separated enti-  
10 ties, rather than INTELSAT procedures.*

11 **“SEC. 645. TERMINATION OF COMMUNICATIONS SATELLITE  
12                   ACT OF 1962 PROVISIONS.**

13       *“Effective on the dates specified, the following provi-  
14 sions of this Act shall cease to be effective:*

15               *“(1) Date of the enactment of this title: Sections  
16 101 and 102; paragraphs (1), (5) and (6) of section  
17 201(a); section 301; section 303; section 502; and  
18 paragraphs (2) and (4) of section 504(a).*

19               *“(2) On the effective date of the Commission’s  
20 order that establishes direct access to INTELSAT  
21 space segment: Paragraphs (1), (3) through (5), and  
22 (8) through (10) of section 201(c); and section 304.*

23               *“(3) On the effective date of the Commission’s  
24 order that establishes direct access to Inmarsat space  
25 segment: Subsections (a) through (d) of section 503.*

1           “(4) *On the effective date of a Commission order*  
2           *determining under section 601(b)(2) that Inmarsat*  
3           *privatization is consistent with criteria in sections*  
4           *621 and 624: Section 504(b).*

5           “(5) *On the effective date of a Commission order*  
6           *determining under section 601(b)(2) that INTELSAT*  
7           *privatization is consistent with criteria in sections*  
8           *621 and 622: Paragraphs (2) and (4) of section*  
9           *201(a); section 201(c)(2); subsection (a) of section*  
10           *403; and section 404.*

11   **“SEC. 646. REPORTS TO CONGRESS.**

12           “(a) *ANNUAL REPORTS.—The President and the Com-*  
13           *mission shall report to the Committees on Commerce and*  
14           *International Relations of the House of Representatives and*  
15           *the Committees on Commerce, Science, and Transportation*  
16           *and Foreign Relations of the Senate within 90 calendar*  
17           *days of the enactment of this title, and not less than annu-*  
18           *ally thereafter, on the progress made to achieve the objectives*  
19           *and carry out the purposes and provisions of this title. Such*  
20           *reports shall be made available immediately to the public.*

21           “(b) *CONTENTS OF REPORTS.—The reports submitted*  
22           *pursuant to subsection (a) shall include the following:*

23                   “(1) *Progress with respect to each objective since*  
24           *the most recent preceding report.*

1           “(2) *Views of the Parties with respect to privat-*  
2           *ization.*

3           “(3) *Views of industry and consumers on privat-*  
4           *ization.*

5           “(4) *Impact privatization has had on United*  
6           *States industry, United States jobs, and United*  
7           *States industry’s access to the global marketplace.*

8           **“SEC. 647. CONSULTATION WITH CONGRESS.**

9           *“The President’s designees and the Commission shall*  
10          *consult with the Committees on Commerce and Inter-*  
11          *national Relations of the House of Representatives and the*  
12          *Committees on Commerce, Science, and Transportation and*  
13          *Foreign Relations of the Senate prior to each meeting of*  
14          *the INTELSAT or Inmarsat Assembly of Parties, the*  
15          *INTELSAT Board of Governors, the Inmarsat Council, or*  
16          *appropriate working group meetings.*

17          **“SEC. 648. SATELLITE AUCTIONS.**

18          *“Notwithstanding any other provision of law, the*  
19          *Commission shall not have the authority to assign by com-*  
20          *petitive bidding orbital locations or spectrum used for the*  
21          *provision of international or global satellite communica-*  
22          *tions services. The President shall oppose in the Inter-*  
23          *national Telecommunication Union and in other bilateral*  
24          *and multilateral fora any assignment by competitive bid-*

1 *ding of orbital locations or spectrum used for the provision*  
2 *of such services.*

3 **“SEC. 649. EXCLUSIVITY ARRANGEMENTS.**

4       “(a) *IN GENERAL.*—No satellite operator shall acquire  
5 *or enjoy the exclusive right of handling telecommunications*  
6 *to or from the United States, its territories or possessions,*  
7 *and any other country or territory by reason of any conces-*  
8 *sion, contract, understanding, or working arrangement to*  
9 *which the satellite operator or any persons or companies*  
10 *controlling or controlled by the operator are parties.*

11       “(b) *EXCEPTION.*—In enforcing the provisions of this  
12 *section, the Commission—*

13               “(1) *shall not require the termination of existing*  
14 *satellite telecommunications services under contract*  
15 *with, or tariff commitment to, such satellite operator;*  
16 *but*

17               “(2) *may require the termination of new services*  
18 *only to the country that has provided the exclusive*  
19 *right to handle telecommunications, if the Commis-*  
20 *sion determines the public interest, convenience, and*  
21 *necessity so requires.*

1           **“Subtitle D—Negotiations To**  
2                           **Pursue Privatization**

3   **“SEC. 661. METHODS TO PURSUE PRIVATIZATION.**

4           *“The President shall secure the pro-competitive*  
5 *privatizations required by this title in a manner that meets*  
6 *the criteria in subtitle B.*

7           **“Subtitle E—Definitions**

8   **“SEC. 681. DEFINITIONS.**

9           *“(a) IN GENERAL.—As used in this title:*

10           *“(1) INTELSAT.—The term ‘INTELSAT’*  
11 *means the International Telecommunications Satellite*  
12 *Organization established pursuant to the Agreement*  
13 *Relating to the International Telecommunications*  
14 *Satellite Organization (INTELSAT).*

15           *“(2) INMARSAT.—The term ‘Inmarsat’ means the*  
16 *International Mobile Satellite Organization estab-*  
17 *lished pursuant to the Convention on the Inter-*  
18 *national Maritime Organization.*

19           *“(3) SIGNATORIES.—The term ‘signatories’—*

20           *“(A) in the case of INTELSAT, or*  
21 *INTELSAT successors or separated entities,*  
22 *means a Party, or the telecommunications entity*  
23 *designated by a Party, that has signed the Oper-*  
24 *ating Agreement and for which such Agreement*

1           *has entered into force or to which such Agree-*  
2           *ment has been provisionally applied; and*

3           “(B) *in the case of Inmarsat, or Inmarsat*  
4           *successors or separated entities, means either a*  
5           *Party to, or an entity that has been designated*  
6           *by a Party to sign, the Operating Agreement.*

7           “(4) *PARTY.—The term ‘Party’—*

8           “(A) *in the case of INTELSAT, means a*  
9           *nation for which the INTELSAT agreement has*  
10           *entered into force or been provisionally applied;*  
11           *and*

12           “(B) *in the case of Inmarsat, means a na-*  
13           *tion for which the Inmarsat convention has en-*  
14           *tered into force.*

15           “(5) *COMMISSION.—The term ‘Commission’*  
16           *means the Federal Communications Commission.*

17           “(6) *INTERNATIONAL TELECOMMUNICATION*  
18           *UNION.—The term ‘International Telecommunication*  
19           *Union’ means the intergovernmental organization*  
20           *that is a specialized agency of the United Nations in*  
21           *which member countries cooperate for the development*  
22           *of telecommunications, including adoption of inter-*  
23           *national regulations governing terrestrial and space*  
24           *uses of the frequency spectrum as well as use of the*  
25           *geostationary satellite orbit.*

1           “(7) *SUCCESSOR ENTITY.*—*The term ‘successor*  
2 *entity’—*

3           “(A) *means any privatized entity created*  
4 *from the privatization of INTELSAT or*  
5 *Inmarsat or from the assets of INTELSAT or*  
6 *Inmarsat; but*

7           “(B) *does not include any entity that is a*  
8 *separated entity.*

9           “(8) *SEPARATED ENTITY.*—*The term ‘separated*  
10 *entity’ means a privatized entity to whom a portion*  
11 *of the assets owned by INTELSAT or Inmarsat are*  
12 *transferred prior to full privatization of INTELSAT*  
13 *or Inmarsat, including in particular the entity whose*  
14 *structure was under discussion by INTELSAT as of*  
15 *March 25, 1998, but excluding ICO.*

16           “(9) *ORBITAL LOCATION.*—*The term ‘orbital lo-*  
17 *cation’ means the location for placement of a satellite*  
18 *on the geostationary orbital arc as defined in the*  
19 *International Telecommunication Union Radio Regu-*  
20 *lations.*

21           “(10) *SPACE SEGMENT.*—*The term ‘space seg-*  
22 *ment’ means the satellites, and the tracking, telem-*  
23 *etry, command, control, monitoring and related fa-*  
24 *cilities and equipment used to support the operation*

1 of satellites owned or leased by INTELSAT,  
2 Inmarsat, or a separated entity or successor entity.

3 “(11) *NON-CORE SERVICES*.—The term ‘non-core  
4 services’ means, with respect to INTELSAT provi-  
5 sion, services other than public-switched network voice  
6 telephony and occasional-use television, and with re-  
7 spect to Inmarsat provision, services other than global  
8 maritime distress and safety services or other existing  
9 maritime or aeronautical services for which there are  
10 not alternative providers.

11 “(12) *ADDITIONAL SERVICES*.—The term ‘addi-  
12 tional services’ means Internet services, high-speed  
13 data, interactive services, non-maritime or non-aero-  
14 nautical mobile services, Direct to Home (DTH) or  
15 Direct Broadcast Satellite (DBS) video services, or  
16 Ka-band services.

17 “(13) *INTELSAT AGREEMENT*.—The term  
18 ‘INTELSAT Agreement’ means the Agreement Relat-  
19 ing to the International Telecommunications Satellite  
20 Organization (‘INTELSAT’), including all its an-  
21 nexes (TIAS 7532, 23 UST 3813).

22 “(14) *HEADQUARTERS AGREEMENT*.—The term  
23 ‘Headquarters Agreement’ means the International  
24 Telecommunication Satellite Organization Head-

1        *quarters Agreement (November 24, 1976) (TIAS 8542,*  
2        *28 UST 2248).*

3                “(15) *OPERATING AGREEMENT.*—*The term ‘Op-*  
4        *erating Agreement’ means—*

5                        “(A) *in the case of INTELSAT, the agree-*  
6        *ment, including its annex but excluding all titles*  
7        *of articles, opened for signature at Washington*  
8        *on August 20, 1971, by Governments or tele-*  
9        *communications entities designated by Govern-*  
10        *ments in accordance with the provisions of the*  
11        *Agreement; and*

12                        “(B) *in the case of Inmarsat, the Operating*  
13        *Agreement on the International Maritime Sat-*  
14        *ellite Organization, including its annexes.*

15                “(16) *INMARSAT CONVENTION.*—*The term*  
16        *‘Inmarsat Convention’ means the Convention on the*  
17        *International Maritime Satellite Organization*  
18        *(Inmarsat) (TIAS 9605, 31 UST 1).*

19                “(17) *NATIONAL CORPORATION.*—*The term ‘na-*  
20        *tional corporation’ means a corporation the owner-*  
21        *ship of which is held through publicly traded securi-*  
22        *ties, and that is incorporated under, and subject to,*  
23        *the laws of a national, state, or territorial govern-*  
24        *ment.*

1           “(18) *COMSAT*.—The term ‘*COMSAT*’ means  
2           the corporation established pursuant to title III of the  
3           *Communications Satellite Act of 1962* (47 U.S.C. 731  
4           *et seq.*)

5           “(19) *ICO*.—The term ‘*ICO*’ means the company  
6           known, as of the date of the enactment of this title,  
7           as *ICO Global Communications, Inc.*

8           “(20) *REPLACEMENT SATELLITE*.—The term ‘re-  
9           placement satellite’ means a satellite that replaces a  
10          satellite that fails prior to the end of the duration of  
11          contracts for services provided over such satellite and  
12          that takes the place of a satellite designated for the  
13          provision of public-switched network and occasional-  
14          use television services under contracts executed prior  
15          to March 25, 1998 (but not including *K-TV* or simi-  
16          lar satellites). A satellite is only considered a replace-  
17          ment satellite to the extent such contracts are equal  
18          to or less than the design life of the satellite.

19          “(21) *GLOBAL MARITIME DISTRESS AND SAFETY*  
20          *SERVICES OR GMDSS*.—The term ‘global maritime  
21          distress and safety services’ or ‘*GMDSS*’ means the  
22          automated ship-to-shore distress alerting system  
23          which uses satellite and advanced terrestrial systems  
24          for international distress communications and pro-  
25          moting maritime safety in general. The *GMDSS* per-

1        *mits the worldwide alerting of vessels, coordinated*  
2        *search and rescue operations, and dissemination of*  
3        *maritime safety information.*

4        *“(b) COMMON TERMINOLOGY.—Except as otherwise*  
5        *provided in subsection (a), terms used in this title that are*  
6        *defined in section 3 of the Communications Act of 1934*  
7        *have the meanings provided in such section.”.*

Attest:

*Clerk.*