

Calendar No. 189

106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 376**

[Report No. 106-100]

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## **A BILL**

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

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JUNE 30, 1999

Reported with an amendment in the nature of a substitute

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1999

Mr. BURNS (for himself, Mr. MCCAIN, Mr. DORGAN, Mr. BRYAN, Mr. BROWNBACK, Mr. CLELAND, Mrs. HUTCHISON, Mr. WYDEN, Ms. MIKULSKI, Ms. COLLINS, Mr. ASHCROFT, Mr. FRIST, Mr. ROCKEFELLER, Mr. ABRAHAM, Ms. SNOWE, Mr. KERRY, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE 30, 1999

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute

[Strike all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Open-market Reorga-  
3 nization for the Betterment of International Tele-  
4 communications Act”.

5 **SEC. 2. PURPOSE.**

6 It is the purpose of this Act to promote a fully com-  
7 petitive domestic and international market for satellite  
8 communications services for the benefit of consumers and  
9 providers of satellite services by fully encouraging the pri-  
10 vatization of the intergovernmental satellite organizations,  
11 INTELSAT and INMARSAT, and reforming the regu-  
12 latory framework of COMSAT Corporation.

13 **SEC. 3. FINDINGS.**

14 The Congress finds that:

15 (1) International satellite communications serv-  
16 ices constitute a critical component of global voice,  
17 video and data services; play a vital role in the inte-  
18 gration of all nations into the global economy and  
19 contribute toward the ability of developing countries  
20 to achieve sustainable development.

21 (2) The United States played a pivotal role in  
22 stimulating the development of international satellite  
23 communications services by enactment of the Com-  
24 munications Satellite Act of 1962 (47 U.S.C. 701-  
25 744; hereinafter the “Satellite Act”), and by its crit-  
26 ical contributions, through its signatory, COMSAT

1 Corporation (hereinafter “COMSAT”), in the estab-  
2 lishment of INTELSAT, which has successfully es-  
3 tablished global satellite networks to provide member  
4 countries with worldwide access to telecommuni-  
5 cations services, including critical lifeline services to  
6 the developing world.

7 (3) By statute, COMSAT, a publicly traded cor-  
8 poration, is the sole United States signatory to  
9 INTELSAT and, as such, is responsible for carrying  
10 out United States commitments under the  
11 INTELSAT Agreement and the INTELSAT Oper-  
12 ating Agreement. Pursuant to a binding Head-  
13 quarters Agreement, the United States, as a Party  
14 to INTELSAT, has satisfied many of its obligations  
15 under the INTELSAT Agreement.

16 (4) In the 37 years since enactment of the Sat-  
17 ellite Act, satellite technology has advanced dramati-  
18 cally, large-scale financing options have improved  
19 immensely and international telecommunications  
20 policies have shifted from those of natural monop-  
21 lies to those based on market forces, resulting in  
22 multiple private commercial companies around the  
23 world providing, or preparing to provide, the domes-  
24 tic, regional, and global satellite telecommunications

1 services that only INTELSAT had previously had  
2 the capabilities to offer.

3 (5) Private commercial satellite communications  
4 systems now offer the latest telecommunications  
5 services to more and more countries of the world  
6 with declining costs, making satellite communica-  
7 tions an attractive complement as well as alternative  
8 to terrestrial communications systems, particularly  
9 in lesser developed countries.

10 (6) To enable consumers to realize optimum  
11 benefits from international satellite communications  
12 services, and to enable these systems to be competi-  
13 tive with other international telecommunication sys-  
14 tems, such as fiber optic cable, the global trade and  
15 regulatory environment must support vigorous and  
16 robust competition.

17 (7) In particular, all satellite systems should  
18 have unimpeded access to the markets that they are  
19 capable of serving, and the ability to compete in a  
20 fair and meaningful way within those markets.

21 (8) Transforming INTELSAT from an inter-  
22 governmental organization into a conventional sat-  
23 ellite services company is a key element in bringing  
24 about the emergence of a fully competitive global en-  
25 vironment for satellite services.

1           (9) Consistent with United States obligations  
2 under the WTO Basic Agreement on Telecommuni-  
3 cations Services and to prevent the potential distor-  
4 tion of competition in the United States market, a  
5 pro-competitive privatization of INTELSAT is an  
6 appropriate prerequisite to granting INTELSAT di-  
7 rect access to users in the United States market.

8           (10) It is in the interest of the United States  
9 to remove, by January 1, 2002, the reservation in  
10 the Fourth Protocol to the General Agreement on  
11 Trade in Services regarding INTELSAT's access to  
12 the United States market through COMSAT, but  
13 such reservation cannot be removed without ade-  
14 quate assurance that the U.S. market for satellite  
15 services will not be disrupted by such INTELSAT  
16 access.

17           (11) The Satellite Act, and other applicable  
18 United States laws, need to be updated to encourage  
19 the pro-competitive privatization of INTELSAT to  
20 update the domestic United States regulatory regime  
21 governing COMSAT, and to ensure a competitively  
22 neutral United States framework for the provision of  
23 domestic and international telecommunications serv-  
24 ices via satellite systems.

1 **SEC. 4. REVISION OF COMMUNICATIONS SATELLITE ACT OF**  
 2 **1962.**

3 (a) Creation of Corporation.— Section 301 of the  
 4 Communications Satellite Act of 1962 (47 U.S.C. 731) is  
 5 amended to read as follows:

6 **“SEC. 301. CREATION OF CORPORATION.**

7 “The corporation shall be subject to the provisions  
 8 of this Act. The right to repeal, alter, or amend this Act  
 9 at any time is expressly reserved.”

10 (b) SATELLITE SERVICES COMPETITION AND PRI-  
 11 VATIZATION.—The Communications Satellite Act of 1962  
 12 (47 U.S.C. 701) is amended by adding at the end the fol-  
 13 lowing:

14 **“TITLE VI—SATELLITE SERVICES**  
 15 **COMPETITION AND PRIVATIZATION**  
 16 **“SUBTITLE A—TRANSITION TO A PRIVATIZED**  
 17 **INTELSAT**

18 **“SEC. 601. POLICY OF THE UNITED STATES.**

19 “It is the policy of the United States to—

20 “(1) encourage INTELSAT to privatize in a  
 21 pro-competitive manner as soon as possible, but not  
 22 later than January 1, 2002, recognizing the need for  
 23 a reasonable transition and process to achieve a full,  
 24 pro-competitive restructuring; and

25 “(2) work constructively with its international  
 26 partners in INTELSAT, and with INTELSAT

1       itself, to bring about a prompt restructuring that  
2       will ensure fair competition, both in the United  
3       States as well as in the global markets served by the  
4       INTELSAT system.

5       **“SEC. 602. ROLE OF COMSAT.**

6       “(a) **ADVOCACY.**— As the sole United States signa-  
7       tory to INTELSAT, COMSAT shall act as an advocate  
8       of a pro-competitive privatization of INTELSAT, and  
9       shall exercise its voting rights with INTELSAT consistent  
10      with that mission and the United States instructional  
11      process.

12      “(b) **ANNUAL REPORTS.**— COMSAT shall report an-  
13      nually to the Committee on Commerce of the House of  
14      Representatives and the Committee on Commerce,  
15      Science, and Transportation of the Senate on the progress  
16      being made by INTELSAT to privatize in a pro-competi-  
17      tive manner.

18      **“SEC. 603. RESTRICTIONS PENDING PRIVATIZATION.**

19      “(a) **INTELSAT ACCESS TO UNITED STATES MAR-**  
20      **KET.**—INTELSAT shall be prohibited from entering the  
21      United States market directly to provide any satellite com-  
22      munications services or space segment capacity to carriers  
23      (other than the United States signatory, COMSAT) or end  
24      users in the United States prior to achieving a pro-com-

1 petitive privatization certified by the President pursuant  
2 to section 612.

3       “(b) **SERVICE RESTRICTIONS.**—Until the President  
4 makes a certification pursuant to section 612, the fol-  
5 lowing services provided by the INTELSAT system shall  
6 not be authorized in the United States by the Federal  
7 Communications Commission: direct-to-home satellite  
8 services; direct broadcast satellite services; satellite digital  
9 audio radio services; and satellite communications services  
10 in the Ka Band. The preceding sentence may be waived  
11 by the President if the President finds that the provision  
12 of such service would enhance national security or serve  
13 a vital public interest. This provision is not intended to  
14 disrupt or otherwise jeopardize the continuing provision  
15 of existing authorized services in the United States via the  
16 INTELSAT system.

17       “**SUBTITLE B—PRIVATIZATION OF INTELSAT**

18       “**SEC. 611. PRIVATIZATION.**

19       “The President shall secure a pro-competitive privat-  
20 ization of INTELSAT as soon as practicable, but no later  
21 than January 1, 2002. Such privatization shall be con-  
22 firmed by a final decision of the INTELSAT Assembly  
23 of Parties.

1 **“SEC. 612. PROVISION OF SERVICES IN THE UNITED STATES**  
 2 **BY INTERGOVERNMENTAL SATELLITE ORGA-**  
 3 **NIZATION AFFILIATES.**

4 **“(a) IN GENERAL.**—In order to achieve the objectives  
 5 and carry out the purposes of the Open-market Reorga-  
 6 nization for the Betterment of International Tele-  
 7 communications Act, the Commission—

8 **“(1)** shall apply a presumption in favor of entry  
 9 to an IGO affiliate licensed by a WTO Member for  
 10 services covered by U.S. commitments under the  
 11 WTO Basic Telecom Agreement;

12 **“(2)** may attach conditions to any grant of au-  
 13 thority to an IGO affiliate that raises the potential  
 14 for competitive harm; or

15 **“(3)** shall in the exceptional case in which an  
 16 application by an IGO affiliate would pose a very  
 17 high risk to competition in the U.S. satellite market,  
 18 deny the application.

19 **“(b) DETERMINATION FACTORS.**—In determining  
 20 whether an application to serve the United States market  
 21 by an IGO affiliate raises the potential for competitive  
 22 harm under (a)(2), the FCC shall consider any potential  
 23 anti-competitive or market distorting consequences of  
 24 continued relationships or connections between an IGO  
 25 and its affiliates, including:

1           “(1) whether the affiliate is structured to pre-  
2 vent practices such as collusive behavior or cross-  
3 subsidization;

4           “(2) the degree of affiliation between the IGO  
5 and its affiliate;

6           “(3) whether the affiliate can directly or indi-  
7 rectly benefit from IGO privileges and immunities;

8           “(4) the ownership structure of the affiliate and  
9 the effect of IGO and other Signatory ownership;

10           “(5) the existence of clearly defined arms-length  
11 conditions governing the affiliate-IGO relationship  
12 including separate officers, directors, employees, and  
13 accounting systems;

14           “(6) the existence of fair market valuing for  
15 permissible business transactions between an IGO  
16 and its affiliate that is verifiable by an independent  
17 audit and consistent with normal commercial prac-  
18 tice;

19           “(7) the existence of common marketing;

20           “(8) the availability of recourse to IGO assets  
21 for credit or capital; and

22           “(9) whether an IGO registers or coordinates  
23 spectrum or orbital locations on behalf of its affil-  
24 iate.

1       (e) SUNSET.—The provisions of this section shall  
2 cease to have effect upon the certification by the President  
3 pursuant to section 613(b).

4       **“SEC. 613. CERTIFICATION.**

5       “(a) APPLICATION.—Upon a final decision of the  
6 INTELSAT Assembly of Parties creating the legal struc-  
7 ture and characteristics of the privatized INTELSAT,  
8 INTELSAT shall file a request with the President for cer-  
9 tification that the privatized INTELSAT’s entry into the  
10 United States market for satellite services will not distort  
11 competition in that market.

12       “(b) CERTIFICATION.—Upon application by  
13 INTELSAT, the President shall make such determination  
14 in accordance with the pro-competitive criteria in sub-  
15 section (e), and shall take into consideration all other rel-  
16 evant competitive factors, including factors related to  
17 other competitors in the United States and global market  
18 for satellite services.

19       “(c) CRITERIA.—In making a determination pursu-  
20 ant to subsection (b), the President shall determine that  
21 a privatized INTELSAT—

22               “(1) has no privileges or immunities limiting  
23 legal accountability, commercial transparency or tax-  
24 ation;

1           “(2) has submitted to the jurisdiction of com-  
2 petition and independent regulatory authorities of a  
3 nation that is a signatory to the World Trade Orga-  
4 nization Agreement on Basic Telecommunications  
5 and that has implemented or accepted the agree-  
6 ment’s reference paper on regulatory principles;

7           “(3) can offer assurance of an arms-length rela-  
8 tionship in all respects between itself and any affil-  
9 iate, including New Skies, and in particular with re-  
10 spect to technical, financial, and management con-  
11 tracts;

12           “(4) can demonstrate that the valuation of as-  
13 sets to be transferred post-privatization is in accord-  
14 ance with generally accepted accounting principles;

15           “(5) has access to orbital locations and associ-  
16 ated spectrum post-privatization in accordance with  
17 the same regulatory processes applicable to other  
18 commercial satellite systems;

19           “(6) conducts technical coordinations post-pri-  
20 vatization under normal, established ITU proce-  
21 dures;

22           “(7) has an ownership structure in the form of  
23 a stock corporation or other similar and accepted  
24 commercial mechanism, and a commitment to a

1 timely initial public offering has been established for  
2 the sale or purchase of company shares;

3 ~~“(8) does not enter into agreements or arrange-~~  
4 ~~ments to secure exclusive access to any national tele-~~  
5 ~~communications market; and~~

6 ~~“(9) will have accomplished a privatization con-~~  
7 ~~sistent with the criteria listed in this subsection at~~  
8 ~~the earliest possible date, but not later than January~~  
9 ~~1, 2002.~~

10 **~~“SEC. 614. FCC REVIEW OF LICENSE APPLICATIONS.~~**

11 ~~“(a) APPLICATION.—If the President makes such a~~  
12 ~~certification pursuant to section 613, the following appli-~~  
13 ~~cations and Letters of Intent to provide satellite commu-~~  
14 ~~nications services by or via the privatized INTELSAT,~~  
15 ~~internationally or within the domestic United States, oth-~~  
16 ~~erwise permitted by law, may be filed with the Commission~~  
17 ~~provided that no instrument of authorization may be~~  
18 ~~granted prior to the implementation of the certified privat-~~  
19 ~~ization:~~

20 ~~“(1) Applications for a satellite earth station or~~  
21 ~~space station under title III of the Communications~~  
22 ~~Act of 1934 (47 U.S.C. 301 et. seq.).~~

23 ~~“(2) Letters of Intent to provide service in the~~  
24 ~~United States via non-U.S.-licensed space segment.~~

1           “~~(3)~~ Applications under section 214 of the  
2           Communications Act of 1934 (47 U.S.C. 214).

3           “~~(b)~~ PUBLIC INTEREST DETERMINATION.—Except  
4 as provided in subsection (c), nothing in this Act shall re-  
5 strict or expand the Commission’s ability to make a public  
6 interest determination concerning any application per-  
7 taining to a privatized INTELSAT’s entry into the United  
8 States market.

9           “~~(c)~~ EFFECT OF PRESIDENTIAL CERTIFICATION ON  
10 COMMISSION DELIBERATIONS.—The Commission shall be  
11 bound by the President’s privatization certification made  
12 pursuant to section 613 for purposes of any license appli-  
13 cation, including space segment and earth station applica-  
14 tions, pending before the Federal Communications Com-  
15 mission which pertains to a privatized INTELSAT’s entry  
16 into the United States market.

17 **“SEC. 614. FAILURE TO PRIVATIZE IN A TIMELY MANNER.**

18           “~~(a)~~ REPORT.—In the event that INTELSAT fails  
19 to fully privatize as provided in sections 611 and 612 by  
20 January 1, 2002, the President shall—

21           (1) immediately commence deliberations to de-  
22 termine what additional measures should be imple-  
23 mented to ensure the rapid privatization of  
24 INTELSAT;

1           (2) no later than March 31, 2002, issue a re-  
2       port delineating such measures to the Committee on  
3       Commerce of the House of Representatives, and  
4       Committee on Commerce, Science, and Transpor-  
5       tation of the Senate; and

6           (3) withdraw as a Party from INTELSAT.

7       “(b) RESERVATION CLAUSE.—The President may de-  
8       termine that, in consideration of progress made, it is in  
9       the national interest of the United States to provide a rea-  
10      sonable extension of time for completion of privatization.

11      “SUBTITLE C—COMSAT GOVERNANCE AND OPERATION

12      “SEC. 621. ELIMINATION OF PRIVILEGES AND IMMUNITIES.

13      “(a) IN GENERAL.—COMSAT shall not have any  
14      privilege or immunity on the basis of its status as a signa-  
15      tory or a representative of the Party to INTELSAT, ex-  
16      cept that COMSAT retains its privileges and  
17      immunities—

18           “(1) for those actions taken in its role as the  
19      United States signatory to INTELSAT upon in-  
20      struction of the United States Government;

21           “(2) for actions taken when acting as the  
22      United States signatory in fulfilling obligations  
23      under the INTELSAT Operating Agreement;

24           “(3) for INTELSAT signatory activities which  
25      COMSAT does not support; and

1           “(4) in accordance with any other exceptions as  
2           the President shall make in accordance with sub-  
3           section (b).

4           “(b) EXCEPTIONS.—The President, or the Presi-  
5           dent’s designee, shall ensure that any action authorized  
6           by the exception is consistent with the purposes of this  
7           Act and COMSAT’s responsibilities as the United States  
8           signatory.

9           “(c) NO JOINT OR SEVERAL LIABILITY.—If COM-  
10          SAT is found liable for any action taken in its status as  
11          a signatory or a representative of the Party to  
12          INTELSAT, any such liability shall be limited to the por-  
13          tion of the judgment that corresponds to Comsat’s per-  
14          centage of the responsibility, as determined by the trier  
15          of fact.

16          “(d) PROSPECTIVE EFFECT OF ELIMINATION.—The  
17          elimination of privileges and immunities contained in this  
18          section shall apply only to actions or decisions taken by  
19          COMSAT after the date of enactment of this section.

20          **“SEC. 622. ABROGATION OF CONTRACTS PROHIBITED.**

21          “Nothing in this Act or the Communications Act of  
22          1934 (47 U.S.C. 151 et. seq.) shall be construed to modify  
23          or invalidate any contract or agreement involving COM-  
24          SAT, INTELSAT, or any terms or conditions of such  
25          agreement in force on the date of enactment of the Open-

1 market Reorganization for the Betterment of Inter-  
 2 national Telecommunications Act, or to give the Commis-  
 3 sion authority, by rule-making or any other means, to in-  
 4 validate any such contract or agreement, or any terms and  
 5 conditions of such contract or agreement.

6 **“SEC. 623. PERMITTED COMSAT INVESTMENT.**

7       “Nothing in this Act shall be construed as precluding  
 8 COMSAT from investing in or owning satellites or other  
 9 facilities independent from INTELSAT, or from providing  
 10 services through reselling capacity over the facilities of  
 11 satellite systems independent from INTELSAT. This sec-  
 12 tion shall not be construed as restricting the types of con-  
 13 tracts which can be executed or services which may be pro-  
 14 vided by COMSAT over the independent satellites or facili-  
 15 ties described in this subsection.

16               “SUBTITLE D—GENERAL PROVISIONS

17 **“SEC. 631. PROMOTION OF EFFICIENT USE OF ORBITAL**  
 18               **SLOTS AND SPECTRUM.**

19       “All satellite system operators authorized to access  
 20 the United States market shall make efficient and timely  
 21 use of orbital and spectrum resources in order to ensure  
 22 that these resources are not warehoused to the detriment  
 23 of other new or existing satellite system operators. Where  
 24 these assurances cannot be provided, satellite system oper-  
 25 ators shall relinquish their rights to these resources.

1 **“SEC. 632. PROHIBITION ON PROCUREMENT PREF-**  
 2 **ERENCES.**

3 “Nothing in this title or the Communications Act of  
 4 1934 (47 U.S.C. 151 et. seq.) shall be construed to au-  
 5 thorize or require any preference in Federal Government  
 6 procurement of telecommunications services, for the sat-  
 7 ellite space segment provided by INTELSAT, nor shall  
 8 anything in this title or the Communications Act of 1934  
 9 be construed to result in a bias against the use of  
 10 INTELSAT through existing or future contract awards.

11 **“SEC. 633. SATELLITE AUCTIONS.**

12 “Notwithstanding any other provision of law, the  
 13 Commission shall not assign by competitive bidding orbital  
 14 locations or spectrum used for the provision of inter-  
 15 national or global satellite communications services. The  
 16 President shall oppose in the International Telecommuni-  
 17 cations Union and in other bilateral and multilateral fora  
 18 any assignment by competitive bidding of orbital locations  
 19 or spectrum used for the provision of such services.

20 **“SEC. 634. RELATIONSHIPS TO OTHER LAWS.**

21 “Whenever the application of the provisions of this  
 22 Act is inconsistent with the provisions of the Communica-  
 23 tions Act of 1934, the provisions of this Act shall govern.

24 **“SUBTITLE E—DEFINITIONS**

25 **“SEC. 641. DEFINITIONS.**

26 “(a) **IN GENERAL.**—In this title:

1           “(1) INTELSAT.—The term ‘INTELSAT’  
2 means the International Telecommunications Sat-  
3 ellite Organization established pursuant to the  
4 Agreement Relating to the International Tele-  
5 communications Satellite Organization  
6 (INTELSAT).

7           “(2) COMSAT.—The term ‘COMSAT’ means  
8 the corporation established pursuant to title III of  
9 this Act.

10           “(3) SIGNATORY.—The term ‘signatory’ means  
11 a Party, or the telecommunications entity designed  
12 by a Party, that has signed the Operating Agree-  
13 ment and for which such Agreement has entered  
14 into force or to which such Agreement has been pro-  
15 visionally applied.

16           “(4) PARTY.—The term ‘Party’ means, in the  
17 ease of INTELSAT, a nation for which the  
18 INTELSAT agreement has entered into force or  
19 been provisionally applied.

20           “(5) COMMISSION.—The term ‘Commission’  
21 means the Federal Communications Commission.

22           “(6) INTERNATIONAL TELECOMMUNICATION  
23 UNION.—The term ‘International Telecommuni-  
24 cation Union’ (ITU) means the intergovernmental  
25 organization that is a specialized agency of the

1 United Nations in which member countries cooper-  
2 ate for the development of telecommunications, in-  
3 cluding adoption of international regulations gov-  
4 erning terrestrial and space uses of the frequency  
5 spectrum as well as use of the geostationary orbital  
6 are.

7 “(7) PRIVATIZED INTELSAT.—The term  
8 ‘privatized INTELSAT’ means any entity created  
9 from the privatization of INTELSAT from the as-  
10 sets of INTELSAT.

11 “(8) ORBITAL LOCATION.—The term ‘orbital lo-  
12 cation’ means the location for placement of a sat-  
13 ellite in geostationary orbits as defined in the Inter-  
14 national Telecommunication Union Radio Regula-  
15 tions.

16 “(9) SPACE SEGMENT.—The term ‘space seg-  
17 ment’ means the satellites, and the tracking, telem-  
18 etry, command, control, monitoring and related fa-  
19 cilities and equipment used to support the operation  
20 of satellites owned or leased by INTELSAT.

21 “(10) INTELSAT AGREEMENT.—The term  
22 ‘INTELSAT agreement’ means the agreement relat-  
23 ing to the International Telecommunications Sat-  
24 ellite Organization (‘INTELSAT’), including all of  
25 its annexes (TIAS 7532, 23 UST 3813).

1           “(11) OPERATING AGREEMENT.—The term ‘op-  
2           erating agreement’ means, in the case of  
3           INTELSAT, the agreement, including its annex but  
4           excluding all titles of articles, opened for signature  
5           at Washington on August 20, 1971, by Governments  
6           or telecommunications entities designated by Gov-  
7           ernments in accordance with the provisions of The  
8           Agreement.

9           “(12) HEADQUARTERS AGREEMENT.—The term  
10          ‘headquarters agreement’ means the binding inter-  
11          national agreement, dated November 24, 1976, be-  
12          tween the United States and INTELSAT covering  
13          privileges, exemptions, and immunities with respect  
14          to the location of INTELSAT’s headquarters in  
15          Washington, D.C.

16          “(13) DIRECT-TO-HOME SATELLITE SERV-  
17          ICES.—The term ‘direct-to-home satellite services’  
18          means the distribution or broadcasting of program-  
19          ming or services by satellite directly to the sub-  
20          scriber’s premises without the use of ground receiv-  
21          ing or distribution equipment, except at the sub-  
22          scriber’s premises or in the uplink process to the  
23          satellite.

24          “(14) SATELLITE DIGITAL AUDIO RADIO SERV-  
25          ICE.—The term ‘satellite digital audio radio service’

1 means a radio communication service in which audio  
2 programming is digitally transmitted by one or more  
3 space stations directly to fixed, mobile, or portable  
4 earth stations, and which may involve complemen-  
5 tary repeating terrestrial transmitters, telemetry,  
6 tracking and control facilities.

7 “(15) DIRECT BROADCAST SATELLITE SERV-  
8 ICE.—The term ‘direct broadcast satellite service’  
9 means a radio communication service in which sig-  
10 nals transmitted or retransmitted by space stations  
11 are intended for direct reception by the general pub-  
12 lic. In the Direct Broadcast Satellite Service the  
13 term ‘direct reception’ shall encompass both indi-  
14 vidual reception and community reception.

15 “(16) EXISTING AUTHORIZED SERVICES.—All  
16 services authorized to be provided by COMSAT via  
17 the INTELSAT system as of January 1, 1999.

18 “(17) IGO.—The term ‘IGO’ means the Inter-  
19 governmental Satellite organizations, INTELSAT,  
20 and INMARSAT.

21 “(18) IGO AFFILIATE.—The term ‘IGO affil-  
22 iate’ means any entity in which an IGO owns an eq-  
23 uity interest of 10 percent or more.

24 “(b) COMMON TERMS.—Except as otherwise provided  
25 in subsection (a), terms used in this title that are defined

1 in section 3 of the Communications Act of 1934 (47  
2 U.S.C. 153) have the meaning provided in such section.”.

3 **SEC. 5. REPEAL OF OWNERSHIP AND STRUCTURAL PROVI-**  
4 **SIONS.**

5 Effective as of the date of the enactment of this Act,  
6 the following provisions of the Communications Satellite  
7 Act of 1962 (47 U.S.C. 701 et seq.) shall cease to be effec-  
8 tive:

9 (1) Subsections (a) and (b) of section 201.

10 (2) Paragraphs (1) through (10) of section 201  
11 (c).

12 (3) Sections 302, 303, and 304.

13 (4) Section 305 (c).

14 (5) Section 402.

15 (6) Section 403 (a).

16 (7) Section 404.

17 **SEC. 6. INTERNATIONAL MARITIME SATELLITE TELE-**  
18 **COMMUNICATIONS ACT AMENDMENTS.**

19 (a) CONTINUING PROVISION OF GLOBAL SATELLITE  
20 SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS  
21 OPERATIONS OF INTERNATIONAL MOBILE SATELLITE  
22 ORGANIZATION.—

23 (1) AUTHORITY.—The International Maritime  
24 Satellite Telecommunications Act (47 U.S.C. 751 et  
25 seq.) is amended by adding at the end the following:

1 **“SEC. 506. GLOBAL SATELLITE SAFETY SERVICES AFTER**  
2 **PRIVATIZATION OF BUSINESS OPERATIONS**  
3 **OF INMARSAT.**

4 “In order to ensure the continued provision of global  
5 maritime distress and safety satellite telecommunications  
6 services after privatization of the business operations of  
7 INMARSAT, the President may maintain on behalf of the  
8 United States membership in the International Mobile  
9 Satellite Organization.”.

10 (b) **REPEAL OF SUPERSEDED AUTHORITY.—**

11 (1) **REPEAL.—**That Act is further amended by  
12 striking sections 502, 503, 504, and 505 (47 U.S.C.  
13 751, 752, 753, and 757).

14 (2) **EFFECTIVE DATE.—**The amendments made  
15 by paragraph (1) shall take effect on the date on  
16 which the International Mobile Satellite Organiza-  
17 tion ceases to operate directly a global mobile sat-  
18 ellite system.

19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “Open-market Reorga-*  
21 *nization for the Betterment of International Telecommuni-*  
22 *cations Act”.*

23 **SEC. 2. PURPOSE.**

24 *It is the purpose of this Act to promote a fully competi-*  
25 *tive domestic and international market for satellite commu-*  
26 *nications services for the benefit of consumers and providers*

1 of satellite services by fully encouraging the privatization  
2 of the intergovernmental satellite organizations,  
3 INTELSAT and Inmarsat, and reforming the regulatory  
4 framework of the COMSAT Corporation.

5 **SEC. 3. FINDINGS.**

6 *The Congress finds that:*

7 (1) *International satellite communications serv-*  
8 *ices constitute a critical component of global voice,*  
9 *video and data services, play a vital role in the inte-*  
10 *gration of all nations into the global economy and*  
11 *contribute toward the ability of developing countries*  
12 *to achieve sustainable development.*

13 (2) *The United States played a pivotal role in*  
14 *stimulating the development of international satellite*  
15 *communications services by enactment of the Commu-*  
16 *nications Satellite Act of 1962 (47 U.S.C. 701–744),*  
17 *and by its critical contributions, through its signa-*  
18 *tory, the COMSAT Corporation, in the establishment*  
19 *of INTELSAT, which has successfully established*  
20 *global satellite networks to provide member countries*  
21 *with worldwide access to telecommunications services,*  
22 *including critical lifeline services to the developing*  
23 *world.*

24 (3) *The United States played a pivotal role in*  
25 *stimulating the development of international satellite*

1        *communications services by enactment of the Inter-*  
2        *national Maritime Satellite Telecommunications Act*  
3        *(47 U.S.C. 751–757), and by its critical contribu-*  
4        *tions, through its signatory, COMSAT, in the estab-*  
5        *lishment of Inmarsat, which enabled member coun-*  
6        *tries to provide mobile satellite services such as inter-*  
7        *national maritime and global maritime distress and*  
8        *safety services to include other satellite services, such*  
9        *as land mobile and aeronautical communications*  
10       *services.*

11            *(4) By statute, COMSAT, a publicly traded cor-*  
12        *poration, is the sole United States signatory to*  
13        *INTELSAT and, as such, is responsible for carrying*  
14        *out United States commitments under the*  
15        *INTELSAT Agreement and the INTELSAT Oper-*  
16        *ating Agreement. Pursuant to a binding Head-*  
17        *quarters Agreement, the United States, as a party to*  
18        *INTELSAT, has satisfied many of its obligations*  
19        *under the INTELSAT Agreement.*

20            *(5) In the 37 years since enactment of the Com-*  
21        *munications Satellite Act of 1962, satellite technology*  
22        *has advanced dramatically, large-scale financing op-*  
23        *tions have improved immensely and international*  
24        *telecommunications policies have shifted from those of*  
25        *natural monopolies to those based on market forces,*

1        *resulting in multiple private commercial companies*  
2        *around the world providing, or preparing to provide,*  
3        *the domestic, regional, and global satellite tele-*  
4        *communications services that only INTELSAT and*  
5        *Inmarsat had previously had the capabilities to offer.*

6            *(6) Private commercial satellite communications*  
7        *systems now offer the latest telecommunications serv-*  
8        *ices to more and more countries of the world with de-*  
9        *clining costs, making satellite communications an at-*  
10       *tractive complement as well as alternative to terres-*  
11       *trial communications systems, particularly in lesser*  
12       *developed countries.*

13           *(7) To enable consumers to realize optimum ben-*  
14       *efits from international satellite communications*  
15       *services, and to enable these systems to be competitive*  
16       *with other international telecommunication systems,*  
17       *such as fiber optic cable, the global trade and regu-*  
18       *latory environment must support vigorous and robust*  
19       *competition.*

20           *(8) In particular, all satellite systems should*  
21       *have unimpeded access to the markets that they are*  
22       *capable of serving, and the ability to compete in a*  
23       *fair and meaningful way within those markets.*

24           *(9) Transforming INTELSAT and Inmarsat*  
25       *from intergovernmental organizations into conven-*

1        *tional satellite services companies is a key element in*  
2        *bringing about the emergence of a fully competitive*  
3        *global environment for satellite services.*

4            (10) *The issue of privatization of any state-*  
5        *owned firm is extremely complex and multifaceted.*  
6        *For that reason, the sale of a firm at arm's length*  
7        *does not automatically, and in all cases, extinguish*  
8        *any prior subsidies or government conferred advan-*  
9        *tages.*

10           (11) *It is in the interest of the United States to*  
11        *negotiate the removal of its reservation in the Fourth*  
12        *Protocol to the General Agreement on Trade in Serv-*  
13        *ices regarding INTELSAT's and Inmarsat's access to*  
14        *the United States market through COMSAT as soon*  
15        *as possible, but such reservation cannot be removed*  
16        *without adequate assurance that the United States*  
17        *market for satellite services will not be disrupted by*  
18        *such INTELSAT or Inmarsat access.*

19           (12) *The Communications Satellite Act of 1962,*  
20        *and other applicable United States laws, need to be*  
21        *updated to encourage and complete the pro-competi-*  
22        *tive privatization of INTELSAT and Inmarsat, to*  
23        *update the domestic United States regulatory regime*  
24        *governing COMSAT, and to ensure a competitively*  
25        *neutral United States framework for the provision of*

1       *domestic and international telecommunications serv-*  
 2       *ices via satellite systems.*

3   **SEC. 4. ESTABLISHMENT OF SATELLITE SERVICES COM-**  
 4       **PETITION; PRIVATIZATION.**

5       *The Communications Satellite Act of 1962 (47 U.S.C.*  
 6   701) *is amended by adding at the end the following:*

7   **“TITLE VI—SATELLITE SERVICES**  
 8       **COMPETITION AND PRIVAT-**  
 9       **IZATION**

10   **“SUBTITLE A—TRANSITION TO A PRIVATIZED INTELSAT**

11   **“SEC. 601. POLICY OF THE UNITED STATES.**

12       *“It is the policy of the United States to—*

13           *“(1) encourage INTELSAT to privatize in a*  
 14       *pro-competitive manner as soon as possible, but not*  
 15       *later than January 1, 2002, recognizing the need for*  
 16       *a reasonable transition and process to achieve a full,*  
 17       *pro-competitive restructuring; and*

18           *“(2) work constructively with its international*  
 19       *partners in INTELSAT, and with INTELSAT itself,*  
 20       *to bring about a prompt restructuring that will en-*  
 21       *sure fair competition, both in the United States as*  
 22       *well as in the global markets served by the*  
 23       *INTELSAT system; and*

1           “(3) encourage Inmarsat’s full implementation of  
2           the terms and conditions of its privatization agree-  
3           ment.

4   **“SEC. 602. ROLE OF COMSAT.**

5           “(a) *ADVOCACY.*—As the United States signatory to  
6 *INTELSAT*, *COMSAT* shall act as an aggressive advocate  
7 of pro-competitive privatization of *INTELSAT*. With re-  
8 spect to the consideration within *INTELSAT* of any matter  
9 related to its privatization, *COMSAT* shall fully consult  
10 with the United States government prior to exercising its  
11 voting rights and shall exercise its voting rights in a man-  
12 ner fully consistent with any instructions issued. In the  
13 event that the U.S. signatory to *INTELSAT* is acquired  
14 after enactment of this section, the President and the Com-  
15 mission shall assure that the instructional process safe-  
16 guards against conflicts of interest.

17           “(b) *ANNUAL REPORTS.*—The President and the Com-  
18 mission shall report annually to the Committee on Com-  
19 merce of the House of Representatives and the Committee  
20 on Commerce, Science, and Transportation of the Senate,  
21 respectively, on the progress being made by *INTELSAT* and  
22 *Inmarsat* to privatize and complete privatization in a pro-  
23 competitive manner.

1 **“SEC. 603. RESTRICTIONS PENDING PRIVATIZATION.**

2 *“INTELSAT is prohibited from entering the United*  
 3 *States market directly to provide any satellite communica-*  
 4 *tions services or space segment capacity to carriers (other*  
 5 *than the United States signatory, COMSAT) or end users*  
 6 *in the United States prior to achieving a pro-competitive*  
 7 *privatization pursuant to section 613(a).*

8 **“SUBTITLE B—ACTIONS TO ENSURE PRO-COMPETITIVE**  
 9 **SATELLITE SERVICES**

10 **“SEC. 611. PRIVATIZATION.**

11 *“(a) IN GENERAL.—The President shall seek a pro-*  
 12 *competitive privatization of INTELSAT as soon as prac-*  
 13 *ticable, but no later than January 1, 2002. Such privatiza-*  
 14 *tion shall be confirmed by a final decision of the*  
 15 *INTELSAT Assembly of Parties and shall be followed by*  
 16 *a timely initial public offering taking into account relative*  
 17 *market conditions.*

18 *“(b) ENSURE CONTINUATION OF PRIVATIZATION.—The*  
 19 *President and the Commission shall seek to ensure that the*  
 20 *privatization of Inmarsat continues in a pro-competitive*  
 21 *manner.*

22 **“SEC. 612. PROVISION OF SERVICES IN THE UNITED STATES**  
 23 **BY PRIVATIZED AFFILIATES OF INTERGOV-**  
 24 **ERNMENTAL SATELLITE ORGANIZATIONS.**

25 *“(a) IN GENERAL.—With respect to any application*  
 26 *for a satellite earth station or space station under title III*

1 *of the Communications Act of 1934 (47 U.S.C 301 et seq.)*  
2 *or any application under section 214 of that Act (47 U.S.C.*  
3 *214) , or any letter of intent to provide service in the United*  
4 *States via non-United States licensed space segment, sub-*  
5 *mitted by a privatized IGO affiliate or successor, the*  
6 *Commission—*

7           “(1) shall apply a presumption in favor of entry  
8           to an IGO affiliate or successor licensed by a WTO  
9           Member for services covered by United States commit-  
10          ments under the WTO Basic Telecom Agreement;

11           “(2) may attach conditions to any grant of au-  
12          thority to an IGO affiliate or successor that raises the  
13          potential for competitive harm; or

14           “(3) shall in the exceptional case in which an  
15          application by an IGO affiliate or successor would  
16          pose a very high risk to competition in the United  
17          States satellite market, deny the application.

18          “(b) *DETERMINATION FACTORS.*—*In determining*  
19 *whether an application to serve the United States market*  
20 *by an IGO affiliate raises the potential for competitive*  
21 *harm or risk under (a)(2), the Commission shall consider*  
22 *any potential anti-competitive or market distorting con-*  
23 *sequences of continued relationships or connections between*  
24 *an IGO and its affiliates including—*

1           “(1) whether the IGO affiliate is structured to  
2 prevent anti-competitive practices such as collusive  
3 behavior or cross-subsidization;

4           “(2) the degree of affiliation between the IGO  
5 and its affiliate;

6           “(3) whether the IGO affiliate can directly or in-  
7 directly benefit from IGO privileges and immunities;

8           “(4) the ownership structure of the affiliate and  
9 the effect of IGO and other Signatory ownership;

10           “(5) the existence of clearly defined arm’s-length  
11 conditions governing the affiliate-IGO relationship  
12 including separate officers, directors, employees, and  
13 accounting systems;

14           “(6) the existence of fair market valuing for per-  
15 missible business transactions between an IGO and  
16 its affiliate that is verifiable by an independent audit  
17 and consistent with normal commercial practice and  
18 generally accepted accounting principles;

19           “(7) the existence of common marketing;

20           “(8) the availability of recourse to IGO assets for  
21 credit or capital;

22           “(9) whether an IGO registers or coordinates  
23 spectrum or orbital locations on behalf of its affiliate;  
24 and

1           “(10) whether the IGO affiliate has corporate  
2 charter provisions prohibiting reaffiliation with the  
3 IGO after privatization.

4           “(c) SUNSET.—The provisions of subsection (b) shall  
5 cease to have effect upon approval of the application pursu-  
6 ant to section 613.

7           “(d) PUBLIC INTEREST DETERMINATION.—Nothing in  
8 this Act affects the Commission’s ability to make a public  
9 interest determination concerning any application per-  
10 taining to entry into the United States market.

11           **“SEC. 613. PRESIDENTIAL NEGOTIATING OBJECTIVES AND**  
12                                   **FCC CRITERIA FOR PRIVATIZED IGOs.**

13           “(a) IN GENERAL.—Upon a final decision of the  
14 INTELSAT Assembly of Parties creating the legal structure  
15 and characteristics of the privatized INTELSAT and recog-  
16 nizing that Inmarsat transitioned into a private company  
17 on April 15, 1999, the President shall within 30 days report  
18 to the Congress on the extent to which such privatization  
19 framework meets each of the criteria in subsection (c), and  
20 whether taking into consideration all other relevant com-  
21 petitive factors, entry of a privatized INTELSAT or  
22 Inmarsat into the United States market will not be likely  
23 to distort competition.

24           “(b) PURPOSE OF PRIVATIZATION CRITERIA.—The cri-  
25 teria provided in subsection (c) shall be used as—

1           “(1) the negotiation objectives for achieving the  
2           privatization of INTELSAT no later than January 1,  
3           2002, and also for Inmarsat;

4           “(2) the standard for measuring, pursuant to  
5           subsection (a), whether negotiations have resulted in  
6           an acceptable framework for achieving the pro-com-  
7           petitive privatization of INTELSAT and Inmarsat;  
8           and

9           “(3) licensing criteria by the Commission in  
10          making its independent determination of whether the  
11          certified framework for achieving the pro-competitive  
12          privatization of INTELSAT and Inmarsat has been  
13          properly implemented by the privatized INTELSAT  
14          and Inmarsat.

15          “(c) *PRIVATIZATION CRITERIA.*—A pro-competitively  
16          privatized INTELSAT or Inmarsat—

17                 “(1) has no privileges or immunities limiting  
18                 legal accountability, commercial transparency, or tax-  
19                 ation;

20                 “(2) has submitted to the jurisdiction of competi-  
21                 tion and independent regulatory authorities of a na-  
22                 tion that is a signatory to the World Trade Organiza-  
23                 tion Agreement on Basic Telecommunications and  
24                 that has implemented or accepted the agreement’s ref-  
25                 erence paper on regulatory principles;

1           “(3) can offer assurance of an arm’s-length rela-  
2           tionship in all respects between itself and any IGO  
3           affiliate;

4           “(4) has given due consideration to the inter-  
5           national connectivity requirements of thin route coun-  
6           tries;

7           “(5) can demonstrate that the valuation of assets  
8           to be transferred post-privatization is in accordance  
9           with generally accepted accounting principles;

10          “(6) has access to orbital locations and associ-  
11          ated spectrum post-privatization in accordance with  
12          the same regulatory processes and fees applicable to  
13          other commercial satellite systems;

14          “(7) conducts technical coordinations post-pri-  
15          vatization under normal, established ITU procedures;

16          “(8) has an ownership structure in the form of  
17          a stock corporation or other similar and accepted  
18          commercial mechanism, and a commitment to a time-  
19          ly initial public offering has been established for the  
20          sale or purchase of company shares;

21          “(9) shall not acquire, or enjoy any agreements  
22          or arrangements which secure, exclusive access to any  
23          national telecommunications market; and

24          “(10) will have accomplished a privatization  
25          consistent with the criteria listed in this subsection at

1        *the earliest possible date, but not later than January*  
2        *1, 2002, for INTELSAT and Inmarsat.*

3        “(d) *FCC INDEPENDENT DETERMINATION ON IMPLE-*  
4        *MENTATION.—After the President has made a report to Con-*  
5        *gress pursuant to subsection (a), with respect to any appli-*  
6        *cation for a satellite earth station or space station under*  
7        *title III of the Communications Act of 1934 (47 U.S.C. 301)*  
8        *or any application under section 214 of the Communica-*  
9        *tions Act of 1934 (47 U.S.C. 214), or any letter of intent*  
10       *to provide service in the United States via a non-United*  
11       *States licensed space segment, submitted by a privatized af-*  
12       *filiate prior to the privatized IGO, or by a privatized IGO,*  
13       *the Commission shall consider whether the enumerated ob-*  
14       *jectives for a pro-competitive privatization of INTELSAT*  
15       *under this section have been implemented with respect to*  
16       *the privatized IGO, but in making that consideration, may*  
17       *neither contract or expand the privatization criteria in sub-*  
18       *section (c).*

19       “(e) *AUTHORITY TO DENY AN APPLICATION.—Nothing*  
20       *in this section affects the Commission’s authority to condi-*  
21       *tion or deny an application on the basis of the public inter-*  
22       *est.*

1 **“SEC. 614. FAILURE TO PRIVATIZE IN A TIMELY MANNER.**

2       “(a) *REPORT.*—*In the event that INTELSAT fails to*  
3 *fully privatize as provided in section 611 by January 1,*  
4 *2002, the President shall—*

5               “(1) *instruct all instrumentalities of the United*  
6 *States Government to grant a preference for procure-*  
7 *ment of satellite services from commercial private sec-*  
8 *tor providers of satellite space segment rather than*  
9 *IGO providers;*

10              “(2) *immediately commence deliberations to de-*  
11 *termine what additional measures should be imple-*  
12 *mented to ensure the rapid privatization of*  
13 *INTELSAT;*

14              “(3) *no later than March 31, 2002, issue a re-*  
15 *port delineating such other measures to the Committee*  
16 *on Commerce of the House of Representatives, and*  
17 *Committee on Commerce, Science, and Transpor-*  
18 *tation of the Senate; and*

19              “(4) *withdraw as a party from INTELSAT.*

20       “(b) *RESERVATION CLAUSE.*—*The President may de-*  
21 *termine, after consulting with Congress, that in consider-*  
22 *ation of privatization being imminent, it is in the national*  
23 *interest of the United States to provide a reasonable exten-*  
24 *sion of time for completion of privatization.*

1    “*SUBTITLE C—COMSAT GOVERNANCE AND OPERATION*

2    “**SEC. 621. ELIMINATION OF PRIVILEGES AND IMMUNITIES.**

3           “(a) *COMSAT.—COMSAT shall not have any privi-*  
4 *lege or immunity on the basis of its status as a signatory*  
5 *or a representative of the United States to INTELSAT and*  
6 *Inmarsat, except that COMSAT retains its privileges and*  
7 *immunities—*

8                   “(1) *for those actions taken in its role as the*  
9 *United States signatory to INTELSAT or Inmarsat*  
10 *upon instruction of the United States Government;*  
11 *and*

12                   “(2) *for actions taken when acting as the United*  
13 *States signatory in fulfilling signatory obligations*  
14 *under the INTELSAT Operating Agreement.*

15           “(b) **NO JOINT OR SEVERAL LIABILITY.—***If COMSAT*  
16 *is found liable for any action taken in its status as a signa-*  
17 *tory or a representative of the party to INTELSAT, any*  
18 *such liability shall be limited to the portion of the judgment*  
19 *that corresponds to COMSAT’s percentage of the responsi-*  
20 *bility, as determined by the trier of fact.*

21           “(c) **PROSPECTIVE EFFECT OF ELIMINATION.—***The*  
22 *elimination of privileges and immunities contained in this*  
23 *section shall apply only to actions or decisions taken by*  
24 *COMSAT after the date of enactment of the Open-market*

1 *Reorganization for the Betterment of International Tele-*  
2 *communications Act.*

3 **“SEC 622. ABROGATION OF CONTRACTS PROHIBITED.**

4       *“Nothing in this Act or the Communications Act of*  
5 *1934 (47 U.S.C. 151 et seq.) shall be construed to modify*  
6 *or invalidate any contract or agreement involving COM-*  
7 *SAT, INTELSAT, or any terms or conditions of such agree-*  
8 *ment in force on the date of enactment of the Open-market*  
9 *Reorganization for the Betterment of International Tele-*  
10 *communications Act, or to give the Commission authority,*  
11 *by rule-making or any other means, to invalidate any such*  
12 *contract or agreement, or any terms and conditions of such*  
13 *contract or agreement.*

14 **“SEC. 623. PERMITTED COMSAT INVESTMENT.**

15       *“Nothing in this Act shall be construed as precluding*  
16 *COMSAT from investing in or owning satellites or other*  
17 *facilities independent from INTELSAT, or from providing*  
18 *services through reselling capacity over the facilities of sat-*  
19 *ellite systems independent from INTELSAT. This section*  
20 *shall not be construed as restricting the types of contracts*  
21 *which can be executed or services which may be provided*  
22 *by COMSAT over the independent satellites or facilities de-*  
23 *scribed in this subsection.*

1                   “*SUBTITLE D—GENERAL PROVISIONS*

2   **“SEC. 631. PROMOTION OF EFFICIENT USE OF ORBITAL**  
3                   **SLOTS AND SPECTRUM.**

4           *“All satellite system operators authorized to access the*  
5 *United States market should make efficient and timely use*  
6 *of orbital and spectrum resources in order to ensure that*  
7 *these resources are not warehoused to the detriment of other*  
8 *new or existing satellite system operators. Where these as-*  
9 *surances cannot be provided, satellite system operators shall*  
10 *arbitrate their rights to these resources according to ITU*  
11 *procedures.*

12   **“SEC. 632. PROHIBITION ON PROCUREMENT PREFERENCES.**

13           *“Except pursuant to section 615 of this Act, nothing*  
14 *in this title or the Communications Act of 1934 (47 U.S.C.*  
15 *151 et seq.) shall be construed to authorize or require any*  
16 *preference in Federal Government procurement of tele-*  
17 *communications services, for the satellite space segment pro-*  
18 *vided by INTELSAT or Inmarsat, nor shall anything in*  
19 *this title or that Act be construed to result in a bias against*  
20 *the use of INTELSAT or Inmarsat through existing or fu-*  
21 *ture contract awards.*

22   **“SEC. 633. SATELLITE AUCTIONS.**

23           *“Notwithstanding any other provision of law, the*  
24 *Commission shall not assign by competitive bidding orbital*  
25 *locations or spectrum used for the provision of international*

1 *or global satellite communications services. The President*  
2 *shall oppose in the International Telecommunications*  
3 *Union and in other bilateral and multilateral negotiations*  
4 *any assignment by competitive bidding of orbital locations,*  
5 *licenses, or spectrum used for the provision of such services.*

6 **“SEC. 634. RELATIONSHIP TO OTHER LAWS.**

7 *“Whenever the application of the provisions of this Act*  
8 *is inconsistent with the provisions of the Communications*  
9 *Act of 1934, the provisions of this Act shall govern.*

10 **“SEC. 635. EXCLUSIVITY ARRANGEMENTS.**

11 *“(a) IN GENERAL.—No satellite operator shall acquire*  
12 *or enjoy the exclusive right of handling traffic to or from*  
13 *the United States, its territories or possessions, and any*  
14 *other country or territory by reason of any concession, con-*  
15 *tract, understanding, or working arrangement to which the*  
16 *satellite operator or any persons or companies controlling*  
17 *or controlled by the operator are parties.*

18 *“(b) EXCEPTION.—In enforcing the provisions of this*  
19 *subsection, the Commission-*

20 *“(1) shall not require the termination of existing*  
21 *satellite telecommunications services under contract*  
22 *with, or tariff commitment to, such satellite operator;*  
23 *but*

24 *“(2) may require the termination of new services*  
25 *only to the country that has provided the exclusive*

1       *right to handle traffic, if the Commission determines*  
2       *the public interest, convenience, and necessity so re-*  
3       *quires.*

4                               “*SUBTITLE E—DEFINITIONS*”

5       “**SEC. 641. DEFINITIONS.**”

6       “(a) *IN GENERAL.*—*In this title:*

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

12               “(2) *INMARSAT.*—*The term ‘Inmarsat’ means*  
13       *the International Mobile Satellite Organization estab-*  
14       *lished pursuant to the Convention on the Inter-*  
15       *national Maritime Satellite Organization and may*  
16       *also refer to INMARSAT Limited when appropriate.*

17               “(3) *COMSAT.*—*The term ‘COMSAT’ means the*  
18       *corporation established pursuant to title III of this*  
19       *Act and its successors and assigns.*

20               “(4) *SIGNATORY.*—*The term ‘signatory’ means*  
21       *the telecommunications entity designated by a party*  
22       *that has signed the Operating Agreement and for*  
23       *which such Agreement has entered into force.*

24               “(5) *PARTY.*—*The term ‘party’ means, in the*  
25       *case of INTELSAT, a nation for which the*

1        *INTELSAT* agreement has entered into force or been  
2        provisionally applied, and in the case of *INMARSAT*,  
3        a nation for which the *Inmarsat* convention entered  
4        into force.

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

7            “(7) *INTERNATIONAL TELECOMMUNICATION*  
8        *UNION; ITU*.—The terms ‘*International Telecommuni-*  
9        *cation Union*’ and ‘*ITU*’ mean the intergovernmental  
10       organization that is a specialized agency of the  
11       *United Nations* in which member countries cooperate  
12       for the development of telecommunications, including  
13       adoption of international regulations governing ter-  
14       restrial and space uses of the frequency spectrum as  
15       well as use of the geostationary orbital arc.

16           “(8) *PRIVATIZED INTELSAT*.—The term  
17       ‘*privatized INTELSAT*’ means any entity created  
18       from the privatization of *INTELSAT* from the assets  
19       of *INTELSAT*.

20           “(9) *PRIVATIZED INMARSAT*.—The term  
21       ‘*privatized Inmarsat*’ means any entity created from  
22       the privatization of *Inmarsat* from the assets of  
23       *Inmarsat*, namely *INMARSAT, Ltd*.

24           “(10) *ORBITAL LOCATION*.—The term ‘*orbital lo-*  
25       *cation*’ means the location for placement of a satellite

1       *in geostationary orbits as defined in the International*  
2       *Telecommunication Union Radio Regulations.*

3               “(11) *SPECTRUM*.—*The term ‘spectrum’ means*  
4       *the range of frequencies used to provide radio commu-*  
5       *nication services.*

6               “(12) *SPACE SEGMENT*.—*The term ‘space seg-*  
7       *ment’ means the satellites, and the tracking, telem-*  
8       *etry, command, control, monitoring and related fa-*  
9       *ilities and equipment used to support the operation*  
10       *of satellites owned or leased by INTELSAT and*  
11       *Inmarsat or an IGO successor or affiliate.*

12               “(13) *INTELSAT AGREEMENT*.—*The term*  
13       *‘INTELSAT agreement’ means the agreement relating*  
14       *to the International Telecommunications Satellite Or-*  
15       *ganization, including all of its annexes (TIAS 7532,*  
16       *23 UST 3813).*

17               “(14) *OPERATING AGREEMENT*.—*The term ‘oper-*  
18       *ating agreement’ means—*

19                       “(A) *in the case of INTELSAT, the agree-*  
20       *ment, including its annex but excluding all titles*  
21       *of articles, opened for signature at Washington*  
22       *on August 20, 1971, by governments or tele-*  
23       *communications entities designated by govern-*  
24       *ments in accordance with the provisions of The*  
25       *Agreement; and*

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

4                   “(15) *HEADQUARTERS AGREEMENT.*—*The term*  
5                   *‘headquarters agreement’ means the binding inter-*  
6                   *national agreement, dated November 24, 1976, be-*  
7                   *tween the United States and INTELSAT covering*  
8                   *privileges, exemptions, and immunities with respect*  
9                   *to the location of INTELSAT’s headquarters in Wash-*  
10                   *ington, D.C.*

11                   “(16) *DIRECT-TO-HOME SATELLITE SERVICES.*—  
12                   *The term ‘direct-to-home satellite services’ means the*  
13                   *distribution or broadcasting of programming or serv-*  
14                   *ices by satellite directly to the subscriber’s premises*  
15                   *without the use of ground receiving or distribution*  
16                   *equipment, except at the subscriber’s premises or in*  
17                   *the uplink process to the satellite.*

18                   “(17) *IGO.*—*The term ‘IGO’ means the Intergov-*  
19                   *ernmental Satellite organizations, INTELSAT and*  
20                   *Inmarsat.*

21                   “(18) *IGO AFFILIATE.*—*The term ‘IGO affiliate’*  
22                   *means any entity in which an IGO owns or has*  
23                   *owned an equity interest of 10 percent or more.*

1           “(19) *IGO SUCCESSOR*.—The term ‘*IGO Suc-*  
2           *cessor*’ means an entity which holds substantially all  
3           the assets of a pre-existing IGO.

4           “(20) *GLOBAL MARITIME DISTRESS AND SAFETY*  
5           *SERVICES*.—The term ‘*global maritime distress and*  
6           *safety services*’ means the automated ship-to-shore dis-  
7           tress alerting system which uses satellite and ad-  
8           vanced terrestrial systems for international distress  
9           communications and promoting maritime safety in  
10          general, permitting the worldwide alerting of vessels,  
11          coordinated search and rescue operations, and dis-  
12          semination of maritime safety information.

13          “(b) *COMMON TERMS*.—Except as otherwise provided  
14          in subsection (a), terms used in this title that are defined  
15          in section 3 of the Communications Act of 1934 (47 U.S.C.  
16          153) have the meaning provided in that section.”.

17       **SEC. 5. CONFORMING CHANGES.**

18          (a) *REPEAL OF FEDERAL COORDINATION AND PLAN-*  
19          *NING PROVISIONS*.—Section 201 of the Communications  
20          Satellite Act of 1962 (47 U.S.C. 721) is amended to read  
21          as follows:

22       **“SEC. 201. IMPLEMENTATION OF POLICY.**

23          “The Federal Communications Commission, in its ad-  
24          ministration of the Communications Act of 1934, shall

1 *make rules and regulations to carry out the provisions of*  
2 *this Act.”.*

3 (b) *REPEAL OF GOVERNMENT-ESTABLISHED COR-*  
4 *PORATION PROVISIONS.—*

5 (1) *IN GENERAL.—Section 301 of the Commu-*  
6 *nications Satellite Act of 1962 (47 U.S.C. 731) is*  
7 *amended to read as follows:*

8 **“SEC. 301. CORPORATION.**

9 *“The corporation organized under the provisions of*  
10 *this title, as this title existed before the enactment of the*  
11 *Open-market Reorganization for the Betterment of Inter-*  
12 *national Telecommunications Act, known as COMSAT, and*  
13 *its successors and assigns, are subject to the provisions of*  
14 *this Act. The right to repeal, alter, or amend this Act at*  
15 *any time is expressly reserved.”.*

16 (2) *CONFORMING CHANGES.—Title III of the*  
17 *Communications Satellite Act of 1962 (47 U.S.C. 731*  
18 *et seq.) is amended—*

19 (A) *by striking “***CREATION OF A**  
20 **COMMUNICATIONS SATELLITE***” in*  
21 *the caption of title III;*

22 (B) *by striking sections 302, 303, and 304;*

23 (C) *by redesignating section 305 as section*  
24 *302; and*

1                   (D) by striking subsection (c) of section 302,  
2                   as redesignated.

3           (c) **REPEAL OF CERTAIN MISCELLANEOUS PROVI-**  
4 **SIONS.**—Title IV of the Communications Satellite Act of  
5 1962 (47 U.S.C. 741 *et seq.*) is amended—

6                   (1) by striking section 402;

7                   (2) by striking subsection (a) of section 403 and  
8                   redesignating subsections (b) and (c) as subsections  
9                   (a) and (b), respectively; and

10                   (3) by striking section 404.

11 **SEC. 6. INTERNATIONAL MARITIME SATELLITE TELE-**  
12 **COMMUNICATIONS ACT AMENDMENTS.**

13           (a) **REPEAL OF SUPERSEDED AUTHORITY.**—Title V of  
14 the Communications Satellite Act of 1962 (47 U.S.C. 751  
15 *et seq.*) is amended—

16                   (1) by striking sections 502, 503, 504, and 505;  
17                   and

18                   (2) by inserting after section 501 the following:

19 **“SEC. 502. GLOBAL SATELLITE SAFETY SERVICES AFTER**  
20 **PRIVATIZATION OF BUSINESS OPERATIONS**  
21 **OF INMARSAT.**

22           “In order to ensure the continued provision of global  
23 maritime distress and safety satellite telecommunications  
24 services after privatization of the business operations of  
25 Inmarsat, the President may maintain membership in the

1 *International Mobile Satellite Organization on behalf of the*  
2 *United States.”.*

3       **(b) EFFECTIVE DATE.**—*The amendments made by sub-*  
4 *section (a) take effect on the date on which the International*  
5 *Mobile Satellite Organization ceases to operate directly a*  
6 *global mobile satellite system.*