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JUL 23 2001

Telecom Division  
International Bureau

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

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JUL 20 2001

FCC MAIL ROOM

In the Matter of

Lockheed Martin Global Telecommunications,  
Comsat Corporation, and Comsat General  
Corporation, Assignor

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}  
} File No. SES- ASG20010504-  
} 00896  
}

And

Telenor Satellite Mobile Services, Inc.  
And Telenor Satellite Inc., Assignee

Applications for Assignment of Sections 214  
Authorizations and Earth Station Licenses and  
Declaratory Ruling Requests

REPLY TO OPPOSITION TO PETITION TO DENY

Litigation Recovery Trust ("Petitioner" or "LRT"), on behalf of its members and its associated entities, hereby submits this Reply to the Opposition To Petition To Deny ("Reply") filed jointly by Lockheed Martin Global Telecommunications ("LMGT"), Comsat Corporation ("Comsat") and Comsat General Corporation, as Assignor and Telenor Satellite Mobile Services Inc. and Telenor Satellite Inc., as Assignee. Heretofore, Petitioner submitted a Provisional Petition to Deny and Petition for Protective Orders ("Petition"). Additionally, Petitioner submitted a Petition for Additional Issue for Review ("Review Petition") in the Commission's current reconsideration proceeding related to the merger of Comsat Corporation ("Comsat"), a District of Columbia corporation, and Lockheed Martin Corporation ("Lockheed"), a Maryland corporation (File Nos. SAT-T/C-20000323-00078, *et al*) related to certain of the issues under consideration herein. <sup>1</sup>

As outlined in detail below, LRT remains concerned that the proposed assignment applications raise a number of complex and serious issues of statutory and regulatory compliance, some constituting matters of first impression before the Commission. On July 11,

<sup>1</sup> As a result of the merger, Comsat became a wholly owned subsidiary of LMGT.

2001, LRT received a service copy of applicants' joint Opposition to Petition to Deny ("Opposition"), which, while setting forth a well reasoned response to the Petition, unfortunately failed to address several key issues. Consequently, LRT has communicated directly with applicants' counsel, but, as outlined below, certain information as requested has not been provided as of this date.

Lacking the information requested, LRT has therefore found it necessary to file the instant pleading removing the provisional qualification of its Petition. Accordingly, as set forth in detail below, LRT must take the position that the applications as presently constituted must be denied as violative of applicable statutory and regulatory authority. However, LRT also offers herein a series of proposed conditions to be imposed on any license grants to address the matters at issue. It is also LRT's view that if sufficient conditions are adopted by the Commission to provide necessary safeguards, LRT upon reconsideration, would likely find it possible to support the grant of the proposed applications.

Furthermore, and of key importance, LRT believes there must be coordination with the Legislative and Executive branches to assure that any action undertaken by the Commission complies fully with applicable statutes and regulatory policies.

### I Policy Considerations

LRT offers the following outline of the basic issues and concerns, which it has reviewed in connection with its review of the pending applications.

#### A. Incomplete Applications

The assignment applications submitted by Telenor fail to define the percentage stock ownership of Telenor ASA, the ultimate parent of the assignee applicant, owned by US citizens or entities. LRT underscored this disclosure issue in its Petition. Additionally, subsequent to receiving a copy of the joint Response, LRT sent four letters to counsel for Telenor and Comsat requesting that the applicants supply information defining the approximate percentage of stock owned by US interests.

As LRT submits this Reply, it is informed that 79% of the stock of Telenor ASA is owned by the Kingdom of Norway and another 7% is owned by Norwegian citizens. This leaves a balance of 14% owned by non Norwegians. It is possible that no shares are owned by United States interests.

Since the applicants have failed to supply the information requested, LRT believes that it is appropriate to take the position that no Telenor ASA stock is owned by US interests. Therefore, based on the known set of facts, the central issue before the Commission is the requested approval of assignment applications where (1) the assignee will be controlled by a foreign government which owns 79% of the issued and outstanding stock of Telenor and (2) the controlling corporation has no US shareholders.

A transaction where control over US licenses and Section 214 authorization passes to a totally foreign owned corporation 79% controlled by a foreign government is a matter of first impression for the Commission. Certainly, such a scenario was never foreseen by the original drafters of Section 310.

#### B. Congressional Policy Regarding Foreign Government Ownership.

Based on its research, LRT has determined that there is a fundamental issue to be confronted concerning the Commission's administration of Section 310(b). (47 USC § 310(b)).

We note, that the last Congress considered the matter of ownership of US telecommunications companies by foreign governments. These complex issues were addressed by the Subcommittee on Telecommunications Trade & Consumer Protection of the House Commerce Committee in hearings on Foreign Government Ownership of American Telecommunications Companies on September 7, 2000.

In a prepared opening statement, then Commerce Committee Chairman Thomas Bliley (R-VA) underscored the principles of US public policy, which he concluded have been designed to eliminate monopoly barriers to entry in favor of pro-competitive models. Congressman Bliley observed:

[M]any of us in Congress myself included supported the [Basic Telecom] Agreement with the expectation that WTO members would quickly and fully privatize their telecom monopolies.

But we now know that full and complete privatization is slow in coming even in countries that have industrialized economies. For example:

the Japanese government still has a 53 percent stake in NTT;

the German government controls 58 percent of Deutsche Telekom;

the French government holds 54 percent of the outstanding shares in France Telecom; and

the Dutch government still controls 43 percent of its national telecom monopoly KPN.

The process of full privatization is taking far too long and the various bills pending in Congress indicate that our patience is running out. The time has come for governments to get out of the telecom services business. Congressman Tom Bliley, Opening Statement, September 7, 2000, [http://com-notes.house.gov/ccheat/hearings/0006191C9\\_Expand?OpenView&StartKey=6C4FBE39CAE97C9C852560410006191C9](http://com-notes.house.gov/ccheat/hearings/0006191C9_Expand?OpenView&StartKey=6C4FBE39CAE97C9C852560410006191C9), emphasis added.

As noted by Congressman Bliley, US policy in this area has sought to foster the speedy privatization of communications carriers throughout the world. As a general matter, these efforts are proceeding in most countries, although there are numerous examples, as in the case of Telenor, of continuing government ownership and control. Such "partial privatizations" must be regarded as raising many of the same problems as confronted where governments maintain monopoly control.

Also participating in the hearings, at his request, was Senator Fritz Hollings (D-SC), then ranking member and now chairman of the Senate Committee on Commerce, Science and Transportation. Senator Hollings is a staunch supporter of public policy safeguarding the integrity of the US licensing system and free markets.

A review of the testimony offered during the hearing of the House Committee also reveals that Senator Hollings spoke out forcefully against any foreign country ownership above the 25% benchmark, a position reflected in legislation he sponsored before the last Congress. At the hearing, he stated that the goal of telecommunications policy should be to "privatize not governmentize." The Senator also took the position that the former chief of the FCC's International Bureau had assured Congress in 1995 during its consideration of the legislation to amend the Communications Act of 1934 that the language of Section 310(b) as written

prevented the Commission from authorizing any foreign government (or a company controlled by a foreign government) from acquiring greater than a 25% interest in any US company holding communications licenses or permits. (see recorded transcription of House Committee hearings. Audio Archive at <http://com-notes.house.gov/ccheat/hearings106.nsf/a317d879d32c08c2852567d300539946/6c4fbe39cae97c9c8525694d006f91c9?OpenDocument>.)

In his remarks to the Committee, the Senator also noted that during hearings in 1995, the then Commission Chairman, Reed Hunt, testified that the Commission would never allow the granting of a license to a foreign government. It is noted that a bill authored by Senator Hollings which redefined the 25% ownership cap on foreign country ownership was supported by a bipartisan group of Senators, including the leadership, i.e. Senators Daschle (D-SD) and Lott (R-LA), and members of the Senate Commerce and Intelligence Committees.

Senator Hollings' position was echoed by Committee Chairman Billy Tauzin (D-LA) and Representative Edward Markey (D-MA), who stated as follows:

“In the new economy of global proportions, governments have no place competing in the private marketplace. They should not be market participants along with being market regulators. They should not be permitted to skew capital markets by artificially inflating stock prices through government backing and foreign government participation in the marketplace also raises thorny law enforcement and national security issues... Privatization should mean totally private. That is what we have in the United States and what exists today in England, New Zealand and Canada” See Audio Archive, Id. Statement of Rep. Edward Markey, emphasis added.

These views were also seconded by Congressman John Dingell (D-MI), who stated his view that it is patently unfair for government owned or controlled companies to compete in any marketplace against private sector companies, as this can have a deleterious impact on the companies, their shareholders and workers. (see Audio Archive, Id. Remarks of Rep. John Dingell.)

As reflected in the House Committee hearings, the Congress remains vitally concerned that the US telecommunications marketplace is not disrupted by the entry of licensees or permittees controlled by foreign governments. As noted in the LRT Petition, the normal rules of free

markets do not apply to companies owned (or partially owned) by foreign governments, which have ready and unlimited access to capital in the form of operating subsidies. This must remain a matter of continuing concern in determining regulatory policies impacting the licensing of telecommunications companies.

Based on the above information and its general research, LRT has serious questions concerning the acceptable limits on the Commission's delegated authority to act in this critical area. LRT's review has confirmed that many in Congress view any efforts by foreign governments to control US telecommunications companies to be directly contrary to the fundamental free market principles observed in this country as codified in the Communications Act. Consequently, it falls to the Commission to administer policies consistent with such principles.

The clear objective of Congressional policy is to assure that the foreign governments move forward with the total privatization of their telecommunications infrastructures. In the present case, the Commission has been presented with a proposed transaction, which clearly violates these free market principles.

### C. Competitive Considerations.

As outlined in detail in the LRT Petition, it is universally understood that telecommunications companies owned or controlled by foreign governments enjoy significant advantages, which can permit them to compete unfairly in the marketplace. Such government controlled or owned companies can access, for all practical purposes, a limitless supply of capital, either through direct investment or loans, or direct or indirect operating subsidies. Additionally, as the government owners are the operating companies' regulators as well, this arrangement at the very least involves the appearance of unfair advantages to the detriment of US and other competing carriers. Further, such use of governmental oversight powers to the benefit of companies it owns or controls can in fact result in a full range of anti-competitive and unfair trade practices significantly harm competing private carriers.

Simply stated, such fundamental problems are inherent where a foreign government owns a controlling interest in a telecommunications company. The applicant have offered arguments

in an effort to support their proposition that the proposed transaction will not harm the MSS market in the US. Such arguments are strictly theoretical, however, more to the point they fail to address the central issue in question. Regardless of the actual or projected impact of the proposed transaction on the mobile services marketplace in the United States or elsewhere, the fact remains that there are basic elements of unfair competition, which are inherent in the structure of this or any transaction where a foreign government can directly control a US licensee or permittee company. No argument can change this fact.

A government *qua* government cannot compete fairly in any marketplace. The inherent nature of government, including sovereignty rights, privileges and immunities, power of taxation, police powers, regulatory powers, etc., creates a series of fundamental advantages which can directly or indirectly threaten or actually harm any private sector company.

#### D. ORBIT Act Considerations

As outlined in its Petition, LRT believes that the Congress in adopting the ORBIT Act set out specific policy goals, which apply to the present situation. Among these were policies to assure increased competition in the telecommunications marketplace to be brought about through the privatization of INTELSAT and Inmarsat. This objective is primarily to be achieved through the public sale of stock in each privatized corporation.

As part of this particular pro-competitive policy, the Congress sought to limit the participation of those carriers, such as Telenor, comprising original INTELSAT and Inmarsat members or signatories in the successor INTELSAT and Inmarsat private corporations. This policy specifically precludes the signatories from increasing their ownership interests through the privatization process.

Indeed, in the case of Inmarsat, the concerns of Congress were registered as early as 1999 addressing what were determined to be significant shortcomings with respect to the organization's privatization process. (see remarks of Rep. Tom Bliley (R-VA) "While Inmarsat has conducted what it deems to be a privatization, that privatization has not been conducted in a pro-competitive manner." Nov. 10, 1999 Cong. Rec E2442, <http://thomas.loc.gov/cgi-bin/query/z?d106:106TTEqsV>)

It is LRT's position that the signatory ownership limitation policy should be seen to apply to all financial transactions among INTELSAT, Inmarsat and the signatories which impact the relative interests of these companies in the privatized INTELSAT and Inmarsat companies. Consequently, LRT believes that both the proposed sale of Comsat Mobile Communications to Telenor at issue herein, as well as the sale of one-third of Comsat's shares in Inmarsat, Ltd. to Telenor which occurred last September, directly violate the signatory ownership limitation provisions of the ORBIT Act.

Without question, the said transactions benefit Telenor by increasing its competitive position vis-à-vis the other Inmarsat signatories and, more importantly, among non signatories. This is the type of result that Congress intended to avoid by adopting the signatory ownership limitation language.

#### E. Law Enforcement and National Security Considerations

As outlined in the LRT Petition, the proposed assignments of licenses and permits to Telenor necessarily raise a number of serious questions with respect to US law enforcement agency requirements. There are also national security issues, which must be confronted. LRT understands that these matters are under active review by the Department of Justice and the Federal Bureau of Investigation.

LRT has stated its misgivings concerning these matters and the public policy precedents, which may be established should the pending applications be approved. These matters must be addressed directly by the concerned agencies, the Executive and the Congress to determine the appropriate safeguards, which must be adopted.

Additionally, LRT below is proposing certain steps, which can and should be taken to address these vital law enforcement and national security issues.

#### F. Distortion of Markets

It is obvious that government ownership, whether full or partial, can distort markets. Plainly stated, governments simply do not operate, as do markets, to maximize economic efficiency.

Further, governments in such situations face conflicts of interest, as they continue to hold large blocks of stock in a privatized telecommunications company.

Where governments own the stock of partially-privatized telecommunications firms, they must confront difficult policy choices. If the government sells the stock, then the price of the shares likely will be depressed, thereby harming the existing holders of the stock, frequently their own citizens. However, a policy resulting in a government holding stock off the open market can artificially inflate the value of the remaining stock on the open market.

#### G. Protectionism

Additional conflicts of interest are created where efforts are undertaken to protect the government-owned telecommunications company from competition within the domestic market. This can be fostered by favorable regulatory policies. Such protectionism—or even the appearance of protectionism—cannot be found to be consistent with free competition and open markets. Simply stated, governments *qua* governments should not be concerned about the profitability or the return on investment of businesses.

Moreover, when considering the determination of regulatory policy, the basic nature of the process should be adversarial. This certainly is not possible when a government's regulators are attempting to oversee a government-owned entity. In such cases, there is the appearance and indeed the likelihood that the regulators might be treating the government-owned entity in a favorable fashion. (Note: This is exactly the problem, which LRT has confronted for over six years as it has sought on repeated occasions to have the FCC intervene against Comsat, a US Government sponsored enterprise.)

#### H. Government Participation in Business

The acquisition of telecommunications companies by enterprises controlled by foreign governments clearly raises fundamental concerns impacting the operation of free markets.

It is a prime principle of US policy that government should not participate in business. Yet, this is just what is happening when a company controlled by a foreign government seeks authority to control a US telecommunications company. In effect, such acquisitions are government acquisitions because of the government ownership.

Further, this clearly represents the extension of a government's power beyond its borders. It is quite apparent that in cases where a government-owned or controlled company acquires a telecommunications company in another country, serious problems can necessarily follow when the two companies and two countries find themselves at cross purposes.

It is true that privatization of telecommunications remains an internal domestic matter for each sovereign country. However, it is also clear that total privatization will in most cases benefit consumers generally by stimulating both competition within the marketplace, as well as foreign investment in the economy. Furthermore, in the area of international communications, regulatory policies no longer can be regarded as strictly domestic, internal matter. It is fully recognized that domestic telecommunications policies directly affect carriers in other countries.

#### I. Expansion of Government Controlled Companies

It has been noted that many of the partially-privatized telecommunications companies are actively engaged in international acquisitions, mergers, and partnerships. In these situations, the companies often appear more interested in expansion via mergers and acquisitions than in concentrating on improving and developing their domestic telecommunications business. In such cases, it is quite apparent that profits from domestic operations are being used to fuel these global mergers and acquisitions. Rightly or wrongly, these partially-privatized companies can be regarded as instruments of their governments in forging these international ventures.

#### J. Interlocking Ownerships

Another potential problem area is interlocking ownership and managements across government-owned telecommunication entities. It is noted that currently two percent of France Telecom is owned by Deutsche Telekom. This may or may not be the case with Telenor. This can only be determined upon a review of the shareholder list of the company. In any event, such actual or potential global alliances between government-owned telecommunication firms raise serious concerns because they can reduce competition and have the appearance of government sponsored alliances.

## II Policy Alternatives

Given the above considerations and those outlined in earlier communications, LRT below outlines a series of policy proposals for consideration by the Commission providing for the adoption of regulations and other necessary safeguards to address the significant issues necessarily involved in this proceeding.

### A. Congressional Review

In light of the number of serious issues which appear to violate, expand or contradict statutory language or the intent of Congressional policy with respect to the administration of Section 310 of the Communications Act, LRT proposes that the Commission suspend or stay further consideration of the applications herein, pending the holding of an appropriate investigation and/or hearing on these critical issues by the concerned Congressional committees.

As reflected in the hearings held by the House Subcommittee last September, it is clear that many in Congress are most concerned with serious questions raised by the expansion of foreign government owned or controlled corporations through the acquisition of US telecommunications companies. Indeed, as noted above, some members hold the position that the Commission in 1995 represented that Section 310(b) foreclosed any acquisition of equity interests in excess of 25% by foreign governments.

As noted, legislation was drafted and submitted and hearings were held during the last Congress addressing the 25% ownership cap on foreign country ownership.

Consequently, it is critical that the Congress be given the opportunity to review the issues related to the proposed CMC-Telenor assignment application, which could result in the assignment of licenses to a company where foreign governments own absolute control of the assignee and where the assignee may have not a single US shareholder.

### B. Mandated Divestiture

LRT proposes that the Commission adopt an alternate policy which would require the divestiture of stock owned by a foreign government in any corporation controlling a license or permit issued by the Commission to below 25% and possibly below that number. In the instant case, the applicants have stated that the Kingdom of Norway owns 79% of the issued and outstanding stock of Telenor ASA.

Under the proposed policy, the Commission would condition any grant of the assignment applications upon the express condition that the present 79% Telenor stock ownership interest held by the Kingdom of Norway be reduced to less than 25% within a stipulated period of time. LRT would propose that the appropriate time period for such initial divestiture to the 25% cap would be 18 months. LRT further proposes that the Commission adopt an additional condition based upon its public interest mandate requiring the Kingdom of Norway to entirely liquidate its stock ownership in Telenor prior to the third anniversary date of the grant order. These policies would be applicable to all foreign countries owning stock in companies holding licenses and permits granted by the Commission.

Such an approach will assure that Telenor will be privatized within a reasonable time period.

### C. Trustee Supervision

In the event that the Commission decides to grant the proposed assignment applications, as a further safeguard, LRT proposes that the Commission require that the stock of Telenor Satellite Mobile Services ("TSMS," the proposed holder of US licenses and permits) be placed under the control of a Trustee (or group of Trustees). Such an arrangement would be designed to insulate the operations of TSMS from the parent corporation which is controlled by the Kingdom of Norway. LRT proposes that the Trustee be appointed by the Commission with the consent of Telenor. Under this proposal, the Trustee would continue to serve and control TSMS until such time as Telenor is fully privatized.

The Trustee's responsibility would be to operate the licensee company in accordance with prudent corporate governance standards for the benefit of its shareholders.

LRT notes that in the past, the Commission has employed trustee supervision in various situations, including cases where control of licensees is involved in a proxy contest. In such cases, control has been placed in a trustee pending ultimate transfer of control of the corporate licensee, following the conclusion of the proxy contest. In the instant situation, the need would be to insulate the licensee corporation from direct control and supervision by a government controlled corporation.

#### D. Compliance Coordinator

In order to address certain law enforcement and national security concerns, LRT proposes the conditioning of any grant of the assignment applications to require the appointment of a Compliance Coordinator by the US Government to operate as a special assistant to the president of TSMS. The Compliance Coordinator would be expected to monitor the day to day operations of Telenor to assure that it complies fully with the applicable policies adopted by Department of Justice, Federal Bureau of Investigation, Department of Defense and any other concerned US agency with respect to law enforcement and national security matters.

Here also, the concern is to assure that full information is made available to US Government representatives as required by law, and appropriate supervision of the combined Telenor-CMC operations is carried out on an ongoing basis.

#### E. Regulatory Coordinator

In order to address certain US regulatory concerns, LRT proposes the conditioning of any grant of the assignment applications to require the appointment of a Regulatory Coordinator by the Commission to operate as a special assistant to the president of TSMS. The Regulatory Coordinator would be expected to monitor the day to day operations of Telenor to assure that it complies fully with the applicable present and future US statutes and rules and regulations of the FCC.

The use of a Regulatory Coordinator would address the unique circumstances where control of US licenses and permits come under the direct control of a foreign government.

#### F. Adoption of Protective Orders

In its Petition, LRT included a request that the Commission adopt a set of Protective Orders with respect to any approval of the applications. LRT remains of the opinion that such a protective mechanism is required in the present case.

LRT requests the adoption of the Protective Orders.

#### G. Divestiture of Proceeds by Comsat

For over five years, LRT has proposed the adoption of an order by the Commission requiring the divestiture of windfall proceeds to be realized by Comsat from the ongoing privatization of INTELSAT and Inmarsat.

It is LRT's position that Comsat's primary revenues realized between 1962 and 2000 were derived from the monopoly established by Congress over the sale by Comsat of INTELSAT facilities to carriers in the US. These proceeds which totaled in the billions of dollars over the 30 plus year period were in part utilized by Comsat to purchase its ownership interests in INTELSAT and Inmarsat. LRT therefore contends that any windfall proceeds realized by Comsat from the privatization of INTELSAT and Inmarsat should be returned to the US Treasury as part repayment of the monopoly proceeds which the corporation has received over the last three decades.

As an integral part of its petition, LRT has further proposed that the windfall proceeds divested by Comsat should be used as loans or grants to fund the digital conversion of small market, minority owned and public broadcasting stations and cable systems in the United States. In the past, the FCC staff has registered support for this long standing proposal by LRT, which mirrors another initiative put forward by former Chairman William Kinnard.

In light of the above, LRT requests that any approval of the pending assignment applications include a condition directing that all proceeds realized by Comsat from the sale of CMC and the sale of its Inmarsat, Ltd. stock to Telenor be paid over to the US Treasury and held pending the establishment of a suitable fund by the Commission to assist with the digitization of small market, minority owned and public television stations and cable systems. Further, the

condition should impose a similar divestiture requirement with respect to any other INTELSAT/Inmarsat privatization proceeds realized by Comsat (including its receipt of shares of New Skies, N.V., which represents the proceeds realized by Comsat from the privatization of 25% of INTELSAT's assets).

#### H. Confirmation of Financial Support of Comsat

As detailed in the LRT Petition, the legislative history of the ORBIT Act is replete with observations of US Senate and House members reflecting their understanding that Lockheed Martin Corporation ("Lockheed") would dedicate substantial resources, both in terms of management expertise and capital, to support the operations of Comsat. As an example, Senator Conrad Burns (R-MT) stated in the Conference Report (March 2, 2000) as follows:

The conference has produced an agreement that will encourage expeditious privatization of INTELSAT and Inmarsat and allow Lockheed Martin to reinvigorate COMSAT as a competitor in the international satellite marketplace. Senate Conference Report, Mar. 2, 2000, emphasis added.

As LRT has noted, the two Telenor transactions reflect a divesting of Comsat assets. Additionally, on July 16, 2001 Lockheed's subsidiary, Lockheed Martin Global Telecommunications, issued a press release announcing that it had reached an agreement to sell a segment of Comsat Labs to ViaSat Inc. The transaction involves the sale of the manufacturing division of Comsat Labs which produces broadband satellite network terminals supporting high-speed voice, video, data, multimedia and Internet connections.

In announcing the transaction, a Lockheed corporate manager was quoted as saying: "As LMGT transitions to focus on solutions and services for the converging telecommunications and information technology marketplace, we have de-emphasized the development and manufacture of hardware and products..."<sup>2</sup> This corporate "transition" and defined de-emphasis and apparent change of focus of LMGT and Comsat is of prime concern to LRT.

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<sup>2</sup> See LMGT press release, July 16, 2001, see <http://www.lmgt.com/> under press releases.

In light of the fact that there is no ready evidence of steps taken by Lockheed to reinvigorate Comsat as had been presumed by the authors of the ORBIT Act, the Telenor transactions and now the sale of the Comsat Labs business to ViaSat raise troubling questions.

One can properly ask whether Lockheed is simply presiding over the deliberate liquidation of Comsat's assets. Taken by themselves, these actions appear to be at variance with the stated Congressional policy, which presupposed an investment of capital by Lockheed in Comsat to stabilize and then expand its operations.

LRT fully expects that the sales contracts entered into to date by Lockheed will produce over \$300 million from the asset sales (about 15% of the price the company paid for Comsat).

There is no available information detailing what, if any, capital has been invested in Comsat by Lockheed since it assumed control over the corporation.

Shortly after the Comsat acquisition last August, Lockheed management on several occasions made public reference to a possible initial public offering of up to 50% of the common shares of LMGT, or the sale of stock to one or more strategic investors to provide capital to expand Comsat and the other LMGT businesses. As the first anniversary of the Comsat acquisition approaches, no such expansion steps have been undertaken or announced.

Considering the representations that were made by Lockheed with respect to securing Congressional approval for the Comsat merger, LRT believes that it is most appropriate to seek information in the context of the Telenor assignment proceeding concerning Lockheed's immediate plans with respect to its commitment of resources to Comsat.

As a consequence, LRT requests that the Commission condition any approval of the pending applications on an representation by Lockheed confirming that it will not divest any additional Comsat assets unless as part of a defined plan designed to commit significant resources, both in terms of expertise and capital, to properly fund the expansion of Comsat, which remains a US Government sponsored enterprise.

### III. Conclusion

For the reasons stated, LRT must take the position that the applications in their present state must be denied.<sup>3</sup>

As noted, lacking detailed shareholder data, LRT has concluded that the Telenor ASA, the ultimate controlling party, is a public corporation 79% owned by the Kingdom of Norway and including no US shareholders.<sup>4</sup>

Consistent with its public interest mandate, the Commission must require the submission of complete shareholder information by the Assignee before further consideration can be given to the applications. Also, as outlined expanded coordination with the Executive and Legislative branches should be undertaken to explore all policy issues involved with the proposed transaction.

Finally, in the event that the Commission ultimately considers the pending or amended applications, LRT respectfully requests that the Commission adopt the conditions outlined herein as appropriate safeguards to assure full compliance with applicable federal statutes and regulatory policies.

Respectfully submitted,  
Litigation Recovery Trust

By \_\_\_\_\_

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<sup>3</sup> Pursuant to applicable policies, as stated in the Petition, LRT remains available, pending further review of the responses of the applicants, through pleadings in this proceeding and/or direct communications, to address the issues cited herein.

<sup>4</sup> LRT has previously informed counsel for the applicants that it had decided to conclude that Telenor has no current US shareholders. The applicants did not communicate with LRT to inform it that such a conclusion is erroneous. Accordingly, LRT has concluded that the applicants silence constitutes an affirmation of its conclusion that Telenor has no US shareholders.

## CERTIFICATE OF SERVICE

I, William L. Whitely, hereby certify that I have this 19<sup>th</sup> day of July, 2001 directed that the foregoing REPLY TO OPPOSITION TO PETITION TO DENY via Federal Express or US Mail, postage prepaid to the following:

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