

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

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In the Matter of

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

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

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} File No. SES- ASG20010504-
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**RESPONSE TO OPPOSITION OF TELENOR AND COMSAT TO
MOTION FOR WAIVER TO ACCEPT PLEADING**

Litigation Recovery Trust ("Petitioner" or "LRT"), on behalf of its members and its associated entities, hereby submits this Response to Opposition of Telenor and Comsat to Motion for Waiver to Accept Pleading. The said Motion seeks a waiver of the Commission's Rules to permit the filing of LRT's Supplement To Petition To Deny ("Supplement"), which has previously been submitted. The Supplement addresses critical issues related to the above referenced applications 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 Assignee¹. Telenor S.A., the Norwegian telecommunications carrier 79% owned by the Kingdom of Norway, is the parent of the Assignee.

1. The Opposition Pleading

The brief, four paragraph Opposition filed by Comsat and Telenor makes a single, limited procedural argument that no "special circumstances" exist supporting a waiver of the rules to allow the filing of the Supplement. Applicants offer no support for this argument.

¹ Assignor and Assignee are referred to herein jointly as "Applicants."

It is LRT's position that this proceeding confronts the Commission with a fundamental and vital policy determination related to the foreign ownership and control of US licensed facilities. Herein, as the result of Comsat's proposed sale of its Comsat Mobile Communications division to Telenor, the Commission is being required to consider the approval of assignment of license applications, which will place US licensed facilities under the direct control of a foreign government and a company 100% owned by non US interests. That being the case, LRT believes that it is critical that all information, which can be presented related to the issue of foreign ownership and government control, can and should be submitted to the Commission for review and consideration, provided such submissions are supported by the requisite waiver requests.

While Applicants chose to address LRT's Motion, they offered no opposing comments to LRT's nine page Supplement, which presented newly acquired evidence concerning the economic problems encountered by Deutsche Telekom and related information concerning the central issue before the Commission in this proceeding, viz., the proposed transfer of control of US licensed telecommunications facilities to a company 100% controlled by aliens and at least 79% controlled by a foreign government.

Earlier this year the Commission granted Deutsche Telekom authority to acquire VoiceStream Wireless, following a detailed review to determine compliance with 47 USC § 310(b)². Following the acquisition, Deutsche Telekom remains 45% owned by the German Government. The Applicants cited the Commission's VoiceStream decision widely in their joint application. Hence, LRT concluded that information concerning the ownership, control arrangements and operating difficulties of Deutsche Telekom would be of immediate importance to the Commission, as it reviews the subject applications. It was for this reason that LRT submitted its Supplement, together with supporting waiver request.

The considerations outlined in the Supplement related to operational problems being encountered by Deutsche Telekom underscore the serious issues, which can arise where a government is permitted to acquire a substantial interest in a private telecommunications company. As outlined in detail in the LRT Petition to Dismiss and Reply pleadings filed in this proceeding, many critics, including Senator Ernest Hollings (D-SC) and Representative Billy Tauzin (R-LA), have spoken out against the serious dangers inherent in government ownership of telecommunications companies. They and others have cited many dangers which can result from such government incursions into private enterprise. Of critical concern is the fact that such companies have ready access to unlimited government resources, giving them unfair operating advantages over private sector competitors. In addition, foreign government control of US

² See *Applications for Consent to the Transfer of Control of Licenses and Authorizations by Deutsche Telekom AG and VoiceStream Wireless Corp. et al, Memorandum Opinion and Order, FCC No. 01-142, IB Docket No. 00-187*

licensees raises a number of serious national security and foreign policy concerns as well. It is LRT's position that these critical issues have not been adequately addressed by the Applicants, as witnessed by their limited, non substantive response to the recent LRT pleadings.

While Applicants chose to oppose the LRT waiver request, it appears that they purposely decided to refrain from addressing the substantive issues included in LRT's Supplement. Among these issues is LRT's key assumption related to Telenor's ownership structure. LRT has previously informed Telenor that, unless it is provided with contradictory share ownership data by the company, based on available information, LRT must assume that 100% of the stock of Telenor is held by non US interests. In failing to address the substantive points raised in the Supplement, Telenor has again chosen not to provide evidence to counter LRT's stated assumption. LRT remains of the position that 100% of the stock of Telenor is owned by non US interests.

Additionally, Comsat has purposely refrained from addressing the business and/or policy rationale underlying the proposed transaction and its reasons for abandoning the mobile satellite industry, a service originally pioneered by Comsat. It has also chosen to avoid offering a response to LRT's often stated proposal that would require Comsat to divest any and all proceeds³ obtained from the sale of its assets, including the sales to Telenor, as part repayment for the billions of dollars of monopoly proceeds it realized over a 30 year period from the sale of INTELSAT space segment .

2. LRT's Supplemental Actions

In light of Applicants' decision not to address the basic substantive issues set forth in the Supplement, LRT has determined to undertake the additional actions which were outlined in its last filing.

As stated in the Supplement, LRT has come to the position that the proposed sale of Comsat Mobile Communications division including its licenses and authorizations to Telenor is not in the public interest, and thus, cannot be permitted. LRT has observed that given the control reserved to the Kingdom of Norway through its ownership control of Telenor, the complications to be expected from such a transaction will be far worse than those currently being experienced by Deutsche Telekom as outlined in the Supplement.

³ LRT has proposed that the proceeds from INTELSAT and Inmarsat privatizations and the sale of Comsat assets be directed to the Commission to establish a fund for assisting with the financing of the digital conversion of small market, public and minority owned television stations and cable systems.

LRT has concluded that US policy cannot support the transfer of operating licenses to a company controlled by a foreign government and where 100% of the stock is owned by non US interests. Such a transaction would send US telecommunications policy down a truly perilous road, in essence allowing total foreign ownership of US licenses, including control by foreign countries. Once this line is crossed, it is not clear that any type of meaningful demarcation could ever be able to be re-established.

As stated in the Supplement, LRT on August 21 issued letters to counsel to Telenor and Comsat requesting that the companies voluntarily withdraw their pending applications no later than August 30th. The Applicants chose to disregard the LRT's request, and submitted their Opposition filing on August 31st. This is unfortunate. LRT again requests that the Applicants seriously review their positions and voluntarily withdraw their applications. As LRT has outlined in its various pleadings, this voluntary action by Comsat and Telenor is in the long term interest of both the United States and Norway.

Furthermore, in accordance with the procedure outlined in the Supplement, LRT is today sending letters to the appropriate members of the Senate and House Commerce Committees concerning the proposed transaction to permit them to review the serious issues of national communications policy raised with respect to compliance with Section 310(b) and related matters. LRT is seeking comments from the members of the Senate and House Commerce Committees to be submitted for the consideration of the Commission. LRT is also requesting that the concerned Committees conduct a special inquiry, so that members of each committee will be fully knowledgeable concerning the pending applications and plans by Lockheed to divest assets of Comsat, and will be able to offer their views to the Commission.

3. Conclusion

LRT again respectfully requests the Commission to postpone final action on the pending applications to allow the Applicants to consider the proposed voluntary dismissal of their joint filings or, in the alternative, to provide sufficient time for the accomplishment of the Congressional review process and submission of comments as outlined above.

Respectfully submitted,

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September 9, 2001

CERTIFICATE OF SERVICE

I, William L. Whitely, hereby certify that I have this 9th day of September, 2001 directed that the foregoing Response to Opposition of Telenor and Comsat to Motion for Waiver to Accept Pleading via Fax, Federal Express or US Mail, postage prepaid to the following:

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