By Hand Delivery

June 21, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re:  Joint Petition to Defer 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, Application for Approval of Assignments and Petition for Declaratory Ruling

File No. SES-ASG-20010504-00896

Dear Ms. Salas:

Transmitted herewith, on behalf of Telenor Satellite Mobile Services, Inc. and Telenor Satellite, Inc. ("Telenor"), Lockheed Martin Global Telecommunications, COMSAT Corporation and COMSAT General Corporation ("COMSAT"), and the Department of Justice and Federal Bureau of Investigation, are an original and four copies of a Joint Petition to Defer in the above-referenced matter. The enclosed Petition requests that the Commission defer the grant of approval for the assignments requested in the above-referenced Application pending a resolution by the above parties of those aspects of the Application that give rise to national security, law enforcement, and public safety concerns.


Respectfully submitted,

George Kleinfeld
Counsel for Telenor
Ms. Magalie Roman Salas
June 21, 2001

cc: Mr. James Bird
    Mr. Tom Tycz
    Ms. Rebecca Arbogast
    Mr. Karl Kensinger
    Ms. Claudia Fox
    Mr. John Coles
    Mr. Ronald Repasi
    Ms. Sylvia Lam
    Ms. Alexandra Field
    Ms. Lisa Choi
    Ms. Claire Blue
JOINT PETITION TO DEFER

Lockheed Martin Global Telecommunications ("LMGT"), COMSAT Corporation, and COMSAT General Corporation (collectively "COMSAT"), together with Telenor Satellite Mobile Services, Inc. ("TSMS"), Telenor Satellite, Inc. ("Telenor Satellite"), and their Norwegian indirect sole owner and guarantor, Telenor Broadband Services AS (individually or collectively "Telenor"), and the Department of Justice ("DOJ") and Federal Bureau of Investigation ("FBI") (collectively, "the parties") respectfully request that the Federal Communications Commission (a) defer grant of the above-captioned Application
pending a resolution by the parties of those aspects of the Application that raise potential national security, law enforcement, and public safety issues, and (b) condition any such grant on compliance with the terms of an agreement entered into to address those issues.

In the above captioned proceeding, COMSAT and Telenor have applied under Sections 214, 310(b)(4) and 310(d) of the Communications Act of 19341 ("the Act") for approval of the assignment from COMSAT to Telenor of licenses and authorizations currently held by COMSAT. The Applicants seek approval of these assignments in connection with TSMS's proposed acquisition of the assets of a COMSAT business unit known as COMSAT Mobile Communications ("CMC"). Approximately 79% of the Telenor companies' ultimate parent, Telenor ASA, is owned by the Kingdom of Norway. As part of the Application, the companies have requested a declaratory ruling (the "Declaratory Ruling") that the acquisition of these authorizations and licenses by Telenor Satellite, and the proposed operation by TSMS of the CMC business, is consistent with Section 310 and will serve the public interest.

Because Telenor Satellite is subject to the ultimate control of a corporation of which approximately 79% is owned by a foreign government, the FBI and DOJ have concerns that the proposed assignment of COMSAT’s licenses and authorizations to Telenor Satellite could, absent an appropriate agreement, impair the ability of authorized governmental agencies in the U.S. to satisfy their obligations to preserve the national security, enforce the laws, and protect public safety. The parties therefore request that, until they reach an agreement that adequately addresses those national security, law enforcement, and public

---

safety issues, the Commission defer the formal issuance of an Order concerning COMSAT’s and Telenor’s request for the Declaratory Ruling.

Because the integrity of U.S. telecommunications services is critical to the ability of our government to preserve the national security, enforce the laws, and maintain the safety of the public, the FBI and the DOJ have previously availed themselves of the opportunity under Sections 214 and 310 of the Act, and implementing regulations, to comment regarding the public interest concerns raised by particular transactions. In the Foreign Participation Order, the Commission said that, in reviewing license applications from foreign carriers under Sections 214 and 310(b)(4) of the Communications Act, it would: (1) continue to apply the public interest test, and (2) "continue to find national security, law enforcement, foreign policy and trade policy concerns relevant to our decision to grant or deny Section 214 and 310(b)(4) applications from applicants from WTO member[s]." 2 The Commission elaborated by saying that:

[W]e realize that foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch . . .

We thus will continue to accord deference to the expertise of Executive Branch agencies in identifying and interpreting issues of concern related to national security, law enforcement, and foreign policy that are relevant to an application pending before us. 3

It is the opinion of the DOJ and the FBI that granting approval for the proposed assignments requested by the parties in this proceeding could materially affect the ability of

---


3 Id. at ¶¶ 62-63.
our government to meet its obligations to U.S. citizens to preserve the national security, enforce the laws and protect the public safety. These obligations can be satisfactorily fulfilled by the implementation of an agreement and the imposition of conditions on the proposed assignment that will ensure that the foreign ownership of U.S. telecommunications licenses and authorizations proposed here will not impair the ability of federal, state and local governments to: (1) conduct securely and effectively lawfully-authorized electronic surveillance of domestic U.S. calls or calls that originate or terminate in the United States; (2) prevent and detect foreign-based or other illegal electronic surveillance within the United States, which might jeopardize the security of the United States or privacy of U.S. telecommunications; and (3) satisfy U.S. National Security Emergency Preparedness and U.S. infrastructure protection requirements.

In their filings with the Commission, COMSAT and Telenor have both committed to entering into an agreement with Executive Branch agencies to address fully the implications for national security, law enforcement and public safety that the proposed assignments present, and have both further agreed to the subsequent conditioning of the affected authorizations on compliance with that agreement. The parties are currently and in good faith working expeditiously towards reaching such an agreement.

Accordingly, the parties hereby request jointly that the Commission: (a) without delaying its present consideration of the Application in any other respect, defer the formal issuance of an Order on COMSAT’s and Telenor’s petition for the Declaratory Ruling until such time as the parties have notified the Commission that they have concluded an

---

4 *See Application for Approval of Assignments and Petition for Declaratory Ruling (May 4, 2001), Section V. D.*
agreement addressing those aspects of the proposed assignments that raise national security,
law enforcement, and public safety concerns; and (b) condition any grant of authority on
compliance with the terms of such agreement.

Respectfully submitted,

Date: June 21, 2001

Mary Ellen Warlow
Acting Deputy Assistant Attorney General
Criminal Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 514-0008(202) 324-6829

Patrick W. Kelley
Deputy General Counsel
FEDERAL BUREAU OF INVESTIGATION
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Department of Justice

George Kleinfeld
Scott B. Murray
Damon A. Terrill
CLIFFORD CHANCE ROGERS & WELLS
2001 K Street, N.W.
Washington, D.C. 20006
(202) 912-5000

Counsel for Telenor

John B. Reynolds
WILEY REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Counsel for Lockheed Martin Global
Telecommunications and COMSAT Corporation