

COMMENTS FILED BY THE SATELLITE INDUSTRY ASSOCIATION

Comes now the Satellite Industry Association (“SIA”)¹, on behalf of its Member Companies², and files its Comments concerning the National Trade Estimate Report on Foreign Trade Barriers³ as follows:

CHINA

National treatment. China is a restrictive satellite market. Local satellite operators receive preferential treatment over foreign satellite operators. Foreign satellite operators are required to obtain government approval or enter into a contract with a “qualified domestic entity” in order to provide services in China. Foreign satellite operators are prohibited from leasing transponder capacity directly to end-users in the country, without the prior approval of the Ministry of Information and Industry (“MII”)

The only authorized domestic fixed satellite service (“FSS”) provider in China is China Direct Broadcast Satellite Company (“China DBSat”), which holds a Basic Telecommunications Services (“BTS”) operating license. China DBSat was founded in December 2007, to merge into one sole satellite operation all satellite-related assets, businesses and professionals of the former three domestic Chinese satellite companies, namely China Satellite Communications Corporation (“China Satcom”), Sino Satellite Communications Company Ltd. (“Sinosat”), and China Orient Telecommunications Satellite Company Ltd (“China Orient”).

In addition to China DBSat, only Asia Satellite Telecommunications Company Limited (“AsiaSat”) and APT Satellite Holdings Limited (“APT Group”) are allowed to provide satellite services directly to end-users in China. These two companies are based in Hong Kong, but are partially owned by Chinese government entities.

Monopoly. China DBSat continues to have a monopoly for the provision of satellite services in the country, since no other company has been granted a BTS license.

¹ SIA is a U.S.-based trade association providing worldwide representation of the leading satellite operators, service providers, manufacturers, launch services providers, and ground equipment suppliers. SIA is the unified voice of the U.S. satellite industry on policy, regulatory, and legislative issues affecting the satellite business.

² SIA Executive Members include: Arrowhead Global Solutions, Inc.; ARTEL Inc.; The Boeing Company; DataPath, Inc.; The DIRECTV Group; Hughes Network Systems LLC; ICO Global Communications; Integral Systems, Inc.; Intelsat, Ltd.; Iridium Satellite LLC; Lockheed Martin Corp.; Loral Space & Communications Inc.; SkyTerra Communications Inc.; Northrop Grumman Corporation; SES Americom, Inc.; and TerraStar Networks Inc. Associate Members include: ATK Inc.; Constellation Networks Corp.; EchoStar Satellite LLC; EMC Inc.; Eutelsat Inc.; Inmarsat Inc.; iDirect Government Technologies; Marshall Communications Corp.; New Skies Satellites, Inc.; Panasonic Avionics Corp; Spacecom Ltd.; Stratos Global Corp; SWE-DISH Satellite Systems; and WildBlue Communications, Inc.

³ See Request for Public Comments to Compile the National Trade Estimate Report on Foreign Trade Barriers and Reports on Sanitary and Phytosanitary and Standards-Related Foreign Trade Barriers, 74 Federal Register 48811 (2009).

Transparency. There is a lack of transparency with regard to satellite regulations in China. While revisions to the Telecommunications Regulations of the People's Republic of China, published by the State Council on September 25, 2000, are currently under consideration, it is unclear how these proposed revisions will apply to satellite communications.

Market access. In August, 2005, the State Council issued a directive which stated that radio and television signal broadcasting and relation station, satellite, and backbone networks are closed to private capital. Further, China also bans foreign companies and organizations from offering educational services via satellite networks.

EGYPT

Lack of transparency. In violation of its General Agreement on Trade in Services ("GATS") Article III obligation to publish all relevant measures of general application which pertain to or affect implementation of its World Trade Organization ("WTO") commitments, there are no established regulations regarding satellite services in Egypt. Egypt does not fully disclose its regulations regarding access to foreign satellites. Publicly available information for satellite service suppliers is limited to general guidelines, which indicate that satellite capacity must be approved by the National Telecommunications Regulatory Authority ("NTRA"), yet no information about this approval process is available. Regulatory policies governing satellite services in Egypt are unknown or ad hoc.

Failure to provide market access. While Egypt has made recent strides towards competition, the market for the provision of satellite services in Egypt remains limited. Egypt has a national satellite operator ("Nilesat") and four Very Small Aperture Terminal ("VSAT") licenses. Egypt's regulator exercises discretion in licensing additional VSAT operators based on its judgment of whether or not the business is viable. Egypt's failure to allow unlimited VSAT operators and satellite service operators directly contradicts its Schedule of Specific Commitments. Egypt specifically agreed to remove all market access barriers in all services, including VSAT, international voice and data, private leased lines, etc., as of December 31, 2005. Its failure to do so is a direct violation of its WTO commitments.

INDIA

Restrictions on the use of foreign satellite capacity for direct-to-home ("DTH") services. The Ministry of Information and Broadcasting ("MIB") has established guidelines that provide a preference for Indian satellites for DTH services, but which allow the use of foreign satellites if the foreign satellite has completed the international frequency coordination process with the domestic Indian National Satellite System ("INSAT"). However, in practice, DTH licenses are not able to contract directly with foreign operators even if the coordination has been completed; the foreign satellite capacity must be procured through the Indian Space Research Organization ("ISRO"), the operator of the INSAT system. ISRO only permits such use if it does not have available capacity on

its own system. The foreign operator must sell its capacity to ISRO, a direct competitor, who then resells it to the consumer, thus creating a middleman scenario where (i) additional costs are created for the consumer through markups by ISRO; (ii) ISRO may structure contracts with the goal (explicitly stated at times) of moving the service to one of ISRO's satellites once capacity is available; and (iii) ISRO determines the rate at which the market grows.

Lack of clarity regarding the role of the Department of Space ("DOS"). The Department of Telecommunication's New Telecom Policy 1999 stated that users of transponder capacity would be able to access both domestic and foreign satellites, in consultation with the DOS, of which ISRO forms part. While it might be necessary for the DOS to ensure that foreign satellites are completing international coordination agreements with the INSAT system, there are no technical or commercial reasons why foreign satellite capacity should need to be procured through DOS (ISRO), a direct competitor of foreign satellite operators. This "middleman" role of DOS results in a competitive advantage for the domestic Indian satellite system.

A true "open skies" policy should be adopted for the provision of satellite services in India. Local users in India should be allowed to contract directly with any satellite operator that has the ability to serve India, and not be constrained by regulatory policies that establish a "preference" for a domestic operator or service provider.

Ku-band restrictions. Ku-band is banned for use of broadcasting to cable head ends. There is no logical reason for this restriction, given that Ku-band capacity is just as suitable for video distribution as is C-band capacity, which is currently approved for this application in India. This restriction should be removed.

Security concerns. Security restrictions on mobile satellite services ("MSS") operators require the deployment of particular gateway infrastructure despite the fact that more advanced technologies can meet policy concerns.

Market access. In 2005, India issued a "Downlink Policy" which requires content providers that down-link programming from a satellite into India to establish a registered office in India or designate a local agent. India cites greater oversight over programming content as its rationale for such a requirement, but it could instead control content through its licensed entities such as cable companies or DTH providers. The policy is overly burdensome and effectively requires companies to establish a taxable presence in India.

India limits foreign direct and indirect investment in satellite uplinking to 49%, negatively impacting the ability of U.S. companies to invest.

ISRAEL

Restrictions on market access. Israel promised in its Schedule of Specific Commitments to provide market access and national treatment to satellite services (voice and data)

without any limitations. Unlike the entries for voice and data telephone services and private leased circuit services, there are no foreign ownership limitations on satellite operators. The schedule does not list any requirement for local presence of any sort, promising access through Modes 1 and 3. In violation of these commitments, Israel applies a 74% foreign ownership limit to satellite service providers and imposes a requirement for establishment of a local presence in order to sell services to the Israeli market. Advertising broadcasted through Israel's satellite network by foreign channels may only broadcast a limited amount of advertising targeted at the Israeli market. Both the foreign ownership limits and the local presence requirement violates Israel's World Trade Organization ("WTO") obligations.

Unreasonable and discriminatory regulation. In addition, Israel applies unreasonable and discriminatory regulation on companies seeking authorization to install and operate an earth station to access or use capacity on a foreign satellite. These companies require a variety of permits and licenses (wireless license, telecommunications services license, type approval license, trading license, and special import license) which are specifically tailored to the particular operator, rather than broadly defined. These licensing requirements impose an undue burden on the provision of service and discriminate against satellite services provided by foreign-owned satellites. As such, they violate Israel's national treatment commitment and contradict the General Agreement on Trade in Services ("GATS") Article VI requirement that the regulations be administered in a reasonable manner.

KAZAKHSTAN

National treatment. There should be no preferential or special treatment for any domestic satellite system. The government has indicated in the past that certain Kazakh satellite service providers would be required to move some of their services to the KazSat satellite system (while this is no longer possible with the loss of KazSat, it should not be a requirement in the future). With regard to Very Small Aperture Terminal ("VSAT") licensing, KazSat officials have stated that the government would likely adopt a VSAT licensing approach similar to that used in the Russian Federation. This means high fees, burdensome and time-consuming procedures for VSAT licenses to operate with foreign satellite operators in contrast to easy and timely approval of VSAT access to domestic satellites.

Market access. A requirement that services can only be provided by "juridical" persons of Kazakhstan imposes a local incorporation requirement, which as noted above, is time-consuming, expensive and unnecessary to protect Kazakh public interest. Therefore, it should be removed. The current World Trade Organization ("WTO") offer contains limitations on foreign investment in telecommunications service providers that should be eliminated. Kazakhstan should undertake not to impose requirements for licenses of satellite services to operate a gateway or billing center in Kazakhstan.

The transport of video signals should be allowed. Kazakhstan should not exclude broadcasters or cable companies from the entities which can purchase space segment directly from the foreign satellite operators.

MEXICO

Market access. Mexico's schedule with respect to satellite services is not particularly clear. The Schedule of Specific Commitments does say, however, that "services other than international long distance services which require use of satellites must use Mexican satellite infrastructure until the year 2002." This appears to give foreign satellite service providers a right to market satellite services, other than voice telephony, beginning January 1, 2002. There is no local presence specified with respect to this commitment. Notwithstanding this commitment, Mexico does not permit foreign-owned satellites to be used in Mexico without a bilateral agreement and a local presence via a locally-issued Concession. The creation of a local entity to hold such Concession requires it to be 51% Mexican-owned. Further, it requires mobile satellite service ("MSS") operators to deploy gateway earth stations, which are not technically necessary, to satisfy security policies. Newer technologies are available and, therefore, the gateway requirement for MSS operators serves as a barrier to market entry.

Excessive fees and capitalization requirements. Mexico applies substantial spectrum usage fees under the Federal Rights Law that bear no relationship to the cost of licensing and operation of the regulator. These fees are not reasonable as required by Article VI of the General Agreement on Trade in Services ("GATS"). Similarly, Mexico applies extremely high capitalization requirements that are not related to the operational abilities of the licensees. Again, these requirements are not reasonable and violate Article VI of the GATS.

RUSSIAN FEDERATION

Transparency. Satellite regulations in the Russian Federation are not transparent. The legal requirements and administrative responsibilities associated with the provision of satellite services, especially for new applications, are not clearly defined.

National treatment. The Russian Federation established a preference for the use of Russian satellite communications systems in Government Decree No. 88. The legal requirements and administrative responsibilities associated with the provision of services appear to be discriminatory, with the Russian government demonstrating a preference for Russian satellite communications systems. Additionally, Order No. 97 of the Ministry of Information Technologies and Communications requires that the connection of communication centers (nodes) located within the boundaries of the Russian Federation be done exclusively either through communication lines that run across Russian territory or connected via communication satellites controlled from within the Russian Federation.

Any preference or special treatment for Russian satellites should be removed from the WTO offer of the Russian Federation. There should be no first right of refusal for the

Russian Satellite Communications Company (“RSCC”) on the sale of satellite capacity in the Russian Federation; in addition, there should be no requirement to sell satellite capacity through said entity.

The Ministry of Communication has implemented a so-called “simplified procedure” for the usage of Ku-band very small aperture terminals (“VSAT”) in a certain frequency spectrum, which can only be used for services on some Russian satellites. This “simplified” VSAT procedure is simple and inexpensive, unlike the cumbersome, time consuming and expensive procedure that VSAT operators operating with non-Russian satellites must go through. The disparity of procedures affords preferential treatment to Russian satellite operators.

Security concerns. The Russian Federation has cited security concerns as a reason for requiring the deployment of earth station gateways for mobile satellite service (“MSS”) operators. This requirement has been superseded by technical innovation. Security concerns and policies should not require deployment of specific technologies in ways that favor local operators.

Frequency coordination. Market entry should not be denied if the multi-year coordination has not been definitively completed; rather, the frequency coordination process of the International Telecommunication Union (“ITU”) should address actual technical issues in a separate process.

Certification process. There is an expensive and overly burdensome certification process for anyone who wants to sell satellite equipment in the Russian Federation or wants a license. This constitutes a barrier to entry. The Russian Federation should recognize EC certifications and reduce or eliminate barriers to certification and sale or lease of satellite terminals.

VENEZUELA

National treatment and most-favored nation treatment. As of November 27, 2000, Venezuela committed to providing national treatment to foreign-owned and operated satellite service providers, subject to a local incorporation requirement. In violation of this commitment, Venezuela’s Organic Telecommunications Law calls for preferential treatment of Venezuelan-owned satellites. Furthermore, draft regulations on satellite services provide an additional preference for satellites of “international entities” by subjecting them to more lax local presence requirements than those imposed on other satellite operators (both foreign and domestic). These “international entities” operate their satellites pursuant to national authorization and preferential treatment of these entities violates Venezuela’s obligation to provide most-favored nation treatment under Article II of the General Agreement on Trade in Services (“GATS”).

The draft regulations also contain another potential violation of Venezuela’s commitment to provide most-favored nation treatment. There is a provision requiring the Venezuelan regulator to sign bilateral reciprocity agreements with administrations notifying foreign

orbital positions prior to licensing satellites in those orbital positions to serve Venezuela. Article II of the GATS provides for non-discriminatory treatment of all World Trade Organization (“WTO”) members and directly prohibits any requirement for reciprocity.

Market access. With regard to broadcasting, including both television and radio, Venezuela limits foreign equity participation (except for other Andean Community countries) to 20% in enterprises engaged in Spanish language media.

Respectfully Submitted,

A handwritten signature in black ink, reading "Patricia Cooper", is written over a thin red vertical line.

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