COMMENTS FILED BY THE
SATELLITE INDUSTRY ASSOCIATION

The Satellite Industry Association ("SIA"), on behalf of its Member Companies,[1] hereby files its Comments concerning obligations under the World Trade Organization ("WTO") and General Agreement on Trade in Services ("GATS"), in response to the U.S. Trade Representative's Request for Comments Concerning Compliance With Telecommunications Trade.[2] Our comments are as follows:

CHINA

National treatment. China is a restrictive market for satellite services. Satellite operators that are Chinese-owned 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")

There is only one authorized domestic fixed satellite service ("FSS") provider in China -- 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

[1] SIA Executive Members include: Artel, Inc.; The Boeing Company; CapRock Communications, Inc.; The DIRECTV Group; Hughes Network Systems, LLC; DBSD North America, Inc.; Echostar Satellite Services, LLC; Integral Systems, Inc.; Intelsat, Ltd.; Iridium Communications Inc.; LightSquared; Lockheed Martin Corporation.; Loral Space & Communications, Inc.; Northrop Grumman Corporation; Rockwell Collins Government Systems; SES WORLD SKIES; and TerreStar Networks, Inc. SIA Associate Members include: Arqiva Satellite and Media; ATK Inc.; Cisco; Cobham SATCOM Land Systems; Comtech EF Data Corp.; DISH Network LLC; DRS Technologies, Inc.; EMC, Inc.; Eutelsat, Inc.; GE Satellite; Globecomm Systems, Inc.; Glowlink Communications Technology, Inc.; iDirect Government Technologies; Inmarsat, Inc.; Marshall Communications Corporation.; Panasonic Avionics Corporation; Spacecom, Ltd.; Spacenet Inc.; Stratos Global Corporation; TeleCommunication Systems, Inc.; Telesat Canada; Trace Systems, Inc.; and ViaSat, Inc. Additional information about SIA can be found at http://www.sia.org.

[2] *See* Request for Comments Concerning Compliance With Telecommunications Trade Agreements, 75 Federal Register 70770 (2010).

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, as no other company has been granted a BTS license.

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.

INDIA

Restrictions on the use of foreign satellite capacity for direct-to-home ("DTH") services. India's Ministry of Information and Broadcasting ("MIB") has established guidelines that establish a preference for Indian satellites to provide capacity for delivery of Direct-to-Home subscription television services ("DTH"). While these guidelines do 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"), in practice, authorized DTH licensees are not permitted to contract directly with foreign operators even if the frequency coordination has been completed. Instead, 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. If ISRO cannot meet the DTH requirement, the foreign satellite operator first must sell its capacity to ISRO, a direct competitor, who then resells it to the consumer, 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"). India's Department of Telecommunication's New Telecom Policy of 1999 stated that users of transponder capacity would be able to access both domestic and foreign satellites, in consultation with the Department of Space ("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. Satellite services operating in the Ku-band frequency range remain banned for use of broadcasting to cable head ends. There is no technical or logical policy reason for this restriction, given that Ku-band capacity is just as suitable for video distribution as are other frequencies, such as C-band, that are 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 within India, despite the fact that more advanced technologies other than locally-established gateways can fully meet security concerns. This requirement should be removed.

Market access. In 2005, India issued a "Downlink Policy" which requires media content providers that down-link programming from a satellite into India 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 companies engaged in uplinking to satellites to a maximum of 49 percent, negatively impacting the ability of U.S. companies to invest.

Respectfully Submitted,

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