

106TH CONGRESS  
1ST SESSION

# H. R. 3261

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1999

Mr. BILEY (for himself, Mr. MARKEY, Mr. TAUZIN, Mr. OXLEY, Mr. GILLMOR, Mr. DEUTSCH, Mr. PICKERING, Mr. ENGEL, Mr. BILBRAY, Mr. BURR of North Carolina, Mr. LARGENT, Mr. COBURN, Mr. SHAYS, Mr. FOSSELLA, Mr. EHRLICH, Mr. DAVIS of Virginia, and Mr. BLUNT) introduced the following bill; which was referred to the Committee on Commerce

---

## A BILL

To amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Communications Sat-  
5 ellite Competition and Privatization Act of 1999”.

6 **SEC. 2. PURPOSE.**

7 It is the purpose of this Act to promote a fully com-  
8 petitive global market for satellite communication services

1 for the benefit of consumers and providers of satellite serv-  
2 ices and equipment by fully privatizing the intergovern-  
3 mental satellite organizations, INTELSAT and Inmarsat.

4 **SEC. 3. REVISION OF COMMUNICATIONS SATELLITE ACT OF**  
5 **1962.**

6 The Communications Satellite Act of 1962 (47  
7 U.S.C. 101) is amended by adding at the end the following  
8 new title:

9 **“TITLE VI—COMMUNICATIONS**  
10 **COMPETITION AND PRIVAT-**  
11 **IZATION**

12 **“Subtitle A—Actions To Ensure**  
13 **Procompetitive Privatization**

14 **“SEC. 601. FEDERAL COMMUNICATIONS COMMISSION**  
15 **LICENSING.**

16 **“(a) LICENSING FOR SEPARATED ENTITIES.—**

17 **“(1) COMPETITION TEST.—**The Commission  
18 may not issue a license or construction permit to  
19 any separated entity, or renew or permit the assign-  
20 ment or use of any such license or permit, or author-  
21 ize the use by any entity subject to United States ju-  
22 risdiction of any space segment owned, leased, or op-  
23 erated by any separated entity, unless the Commis-  
24 sion determines that such issuance, renewal, assign-  
25 ment, or use will not harm competition in the tele-

1       communications market of the United States. If the  
2       Commission does not make such a determination, it  
3       shall deny or revoke authority to use space segment  
4       owned, leased, or operated by the separated entity to  
5       provide services to, from, or within the United  
6       States.

7               “(2) CRITERIA FOR COMPETITION TEST.—In  
8       making the determination required by paragraph  
9       (1), the Commission shall use the licensing criteria  
10       in sections 621 and 623, and shall not make such  
11       a determination unless the Commission determines  
12       that the privatization of any separated entity is con-  
13       sistent with such criteria.

14              “(b) LICENSING FOR INTELSAT, INMARSAT, AND  
15       SUCCESSOR ENTITIES.—

16              “(1) COMPETITION TEST.—The Commission  
17       shall substantially limit, deny, or revoke the author-  
18       ity for any entity subject to United States jurisdic-  
19       tion to use space segment owned, leased, or operated  
20       by INTELSAT or Inmarsat or any successor enti-  
21       ties to provide non-core services to, from, or within  
22       the United States, unless the Commission  
23       determines—

24                      “(A) after April 1, 2001, in the case of  
25                      INTELSAT and its successor entities, that

1 INTELSAT and any successor entities have  
2 been privatized in a manner that will not harm  
3 competition in the telecommunications markets  
4 of the United States; or

5 “(B) after April 1, 2000, in the case of  
6 Inmarsat and its successor entities, that  
7 Inmarsat and any successor entities have been  
8 privatized in a manner that will not harm com-  
9 petition in the telecommunications markets of  
10 the United States.

11 “(2) CRITERIA FOR COMPETITION TEST.—In  
12 making the determination required by paragraph  
13 (1), the Commission shall use the licensing criteria  
14 in sections 621, 622, and 624, and shall not make  
15 such a determination unless the Commission deter-  
16 mines that such privatization is consistent with such  
17 criteria.

18 “(3) CLARIFICATION: COMPETITIVE SAFE-  
19 GUARDS.—In making its licensing decisions under  
20 this subsection, the Commission shall consider  
21 whether users of non-core services provided by  
22 INTELSAT or Inmarsat or successor or separated  
23 entities are able to obtain non-core services from  
24 providers offering services other than through  
25 INTELSAT or Inmarsat or successor or separated

1 entities, at competitive rates, terms, or conditions.  
2 Such consideration shall also include whether such  
3 licensing decisions would require users to replace  
4 equipment at substantial costs prior to the termi-  
5 nation of its design life. In making its licensing deci-  
6 sions, the Commission shall also consider whether  
7 competitive alternatives in individual markets do not  
8 exist because they have been foreclosed due to anti-  
9 competitive actions undertaken by or resulting from  
10 the INTELSAT or Inmarsat systems. Such licensing  
11 decisions shall be made in a manner which facilitates  
12 achieving the purposes and goals in this title and  
13 shall be subject to notice and comment.

14 “(c) ADDITIONAL CONSIDERATIONS IN DETERMINA-  
15 TIONS.—In making its determinations and licensing deci-  
16 sions under subsections (a) and (b), the Commission shall  
17 take into consideration the United States obligations and  
18 commitments for satellite services under the Fourth Pro-  
19 tocol to the General Agreement on Trade in Services.

20 “(d) INDEPENDENT FACILITIES COMPETITION.—  
21 Nothing in this section shall be construed as precluding  
22 COMSAT from investing in or owning satellites or other  
23 facilities independent from INTELSAT and Inmarsat,  
24 and successor or separated entities, or from providing  
25 services through reselling capacity over the facilities of

1 satellite systems independent from INTELSAT and  
2 Inmarsat, and successor or separated entities. This sub-  
3 section shall not be construed as restricting the types of  
4 contracts which can be executed or services which may be  
5 provided by COMSAT over the independent satellites or  
6 facilities described in this subsection.

7 **“SEC. 602. INTELSAT OR INMARSAT ORBITAL LOCATIONS.**

8       “(a) **REQUIRED ACTIONS.**—Unless, in a proceeding  
9 under section 601(b), the Commission determines that  
10 INTELSAT or Inmarsat have been privatized in a manner  
11 that will not harm competition, then—

12               “(1) the President shall oppose, and the Com-  
13 mission shall not assist, any registration for new or-  
14 bital locations for INTELSAT or Inmarsat—

15                       “(A) with respect to INTELSAT, after  
16 April 1, 2001; and

17                       “(B) with respect to Inmarsat, after April  
18 1, 2000; and

19               “(2) the President and Commission shall, con-  
20 sistent with the deadlines in paragraph (1), take all  
21 other necessary measures to preclude procurement,  
22 registration, development, or use of new satellites  
23 which would provide non-core services.

24       “(b) **EXCEPTION.**—

1           “(1) REPLACEMENT AND PREVIOUSLY CON-  
2           TRACTED SATELLITES.—Subsection (a) shall not  
3           apply to—

4                   “(A) orbital locations for replacement sat-  
5                   ellites (as described in section 622(2)(B)); and

6                   “(B) orbital locations for satellites that are  
7                   contracted for as of March 25, 1998, if such  
8                   satellites do not provide additional services.

9           “(2) LIMITATION ON EXCEPTION.—Paragraph  
10           (1) is available only with respect to satellites de-  
11           signed to provide services solely in the C and Ku for  
12           INTELSAT, and L for Inmarsat bands.

13   **“SEC. 603. ADDITIONAL SERVICES AUTHORIZED.**

14           “(a) SERVICES AUTHORIZED DURING CONTINUED  
15           PROGRESS.—

16                   “(1) CONTINUED AUTHORIZATION.—The Com-  
17                   mission may issue an authorization, license, or per-  
18                   mit to, or renew the license or permit of, any pro-  
19                   vider of services using INTELSAT or Inmarsat  
20                   space segment, or authorize the use of such space  
21                   segment, for additional services (including additional  
22                   applications of existing services) or additional areas  
23                   of business, subject to the requirements of this sec-  
24                   tion.

1           “(2) ADDITIONAL SERVICES PERMITTED UNDER  
2           NEW CONTRACTS UNLESS PROGRESS FAILS.—If the  
3           Commission makes a finding under subsection (b)  
4           that conditions required by such subsection have not  
5           been attained, the Commission may not, pursuant to  
6           paragraph (1), permit such additional services to be  
7           provided directly or indirectly under new contracts  
8           for the use of INTELSAT or Inmarsat space seg-  
9           ment, unless and until the Commission subsequently  
10          makes a finding under such subsection that such  
11          conditions have been attained.

12          “(3) PREVENTION OF EVASION.—The Commis-  
13          sion shall, by rule, prescribe means reasonably de-  
14          signed to prevent evasions of the limitations con-  
15          tained in paragraph (2) by customers who did not  
16          use specific additional services as of the date of the  
17          Commission’s most recent finding under subsection  
18          (b) that the conditions of such subsection have not  
19          been obtained.

20          “(b) REQUIREMENTS FOR ANNUAL FINDINGS.—

21          “(1) GENERAL REQUIREMENTS.—The findings  
22          required under this subsection shall be made, after  
23          notice and comment, on or before January 1 of  
24          2000, 2001, and 2002. The Commission shall find



1 that the conditions required by this subsection have  
2 been attained only if the Commission finds that—

3 “(A) substantial and material progress has  
4 been made during the preceding period at a  
5 rate and manner that is probable to result in  
6 achieving pro-competitive privatizations in ac-  
7 cordance with the requirements of this title;  
8 and

9 “(B) neither INTELSAT nor Inmarsat are  
10 hindering competitors’ or potential competitors’  
11 access to the satellite services marketplace.

12 “(2) FIRST FINDING.—In making the finding  
13 required to be made on or before January 1, 2000,  
14 the Commission shall not find that the conditions re-  
15 quired by this subsection have been attained unless  
16 the Commission finds that—

17 “(A) COMSAT has submitted to the  
18 INTELSAT Board of Governors a resolution  
19 calling for the pro-competitive privatization of  
20 INTELSAT in accordance with the require-  
21 ments of this title;

22 “(B) the United States has submitted such  
23 resolution at the first INTELSAT Assembly of  
24 Parties meeting that takes place after such date  
25 of enactment; and

1           “(C) the INTELSAT Assembly of Parties  
2           has created a working party to consider and  
3           make recommendations for the pro-competitive  
4           privatization of INTELSAT consistent with  
5           such resolution.

6           “(3) SECOND ANNUAL FINDING.—In making  
7           the finding required to be made on or before Janu-  
8           ary 1, 2001, the Commission shall not find that the  
9           conditions required by this subsection have been at-  
10          tained unless the INTELSAT Assembly of Parties  
11          has approved a recommendation for the pro-competi-  
12          tive privatization of INTELSAT in accordance with  
13          the requirements of this title.

14          “(4) THIRD ANNUAL FINDING.—In making the  
15          finding required to be made on or before January 1,  
16          2002, the Commission shall not find that the condi-  
17          tions required by this subsection have been attained  
18          unless the pro-competitive privatization of  
19          INTELSAT in accordance with the requirements of  
20          this title has been achieved by such date.

21          “(5) CRITERIA FOR EVALUATION OF HIN-  
22          DERING ACCESS.—The Commission shall not make a  
23          determination under paragraph (1)(B) unless the  
24          Commission determines that INTELSAT and  
25          Inmarsat are not in any way impairing, delaying, or

1 denying access to national markets or orbital loca-  
2 tions.

3 “(c) EXCEPTION FOR SERVICES UNDER EXISTING  
4 CONTRACTS IF PROGRESS NOT MADE.—This section shall  
5 not preclude INTELSAT or Inmarsat or any signatory  
6 thereof from continuing to provide additional services  
7 under an agreement with any third party entered into  
8 prior to any finding under subsection (b) that the condi-  
9 tions of such subsection have not been attained.

10 **“Subtitle B—Federal Communica-**  
11 **tions Commission Licensing Cri-**  
12 **teria: Privatization Criteria**

13 **“SEC. 621. GENERAL CRITERIA TO ENSURE A PRO-COM-**  
14 **PETITIVE PRIVATIZATION OF INTELSAT AND**  
15 **INMARSAT.**

16 “The President and the Commission shall secure a  
17 pro-competitive privatization of INTELSAT and Inmarsat  
18 that meets the criteria set forth in this section and sec-  
19 tions 622 through 624. In securing such privatizations,  
20 the following criteria shall be applied as licensing criteria  
21 for purposes of subtitle A:

22 “(1) DATES FOR PRIVATIZATION.—Privatiza-  
23 tion shall be obtained in accordance with the criteria  
24 of this title of—

1           “(A) INTELSAT as soon as practicable,  
2           but no later than April 1, 2001; and

3           “(B) Inmarsat as soon as practicable, but  
4           no later than April 1, 2000.

5           “(2) INDEPENDENCE.—The successor entities  
6           and separated entities of INTELSAT and Inmarsat  
7           resulting from the privatization obtained pursuant to  
8           paragraph (1) shall—

9           “(A) be entities that are national corpora-  
10          tions; and

11          “(B) have ownership and management that  
12          is independent of—

13               “(i) any signatories or former signato-  
14               ries that control access to national tele-  
15               communications markets; and

16               “(ii) any intergovernmental organiza-  
17               tion remaining after the privatization.

18          “(3) TERMINATION OF PRIVILEGES AND IMMUN-  
19          ITIES.—The preferential treatment of INTELSAT  
20          and Inmarsat shall not be extended to any successor  
21          entity or separated entity of INTELSAT or  
22          Inmarsat. Such preferential treatment includes—

23               “(A) privileged or immune treatment by  
24               national governments;

1           “(B) privileges or immunities or other  
2 competitive advantages of the type accorded  
3 INTELSAT and Inmarsat and their signatories  
4 through the terms and operation of the  
5 INTELSAT Agreement and the associated  
6 Headquarters Agreement and the Inmarsat  
7 Convention; and

8           “(C) preferential access to orbital loca-  
9 tions, including any access to orbital locations  
10 that is not subject to the legal or regulatory  
11 processes of a national government that applies  
12 due diligence requirements intended to prevent  
13 the warehousing of orbital locations.

14           “(4) PREVENTION OF EXPANSION DURING  
15 TRANSITION.—During the transition period prior to  
16 full privatization, INTELSAT and Inmarsat shall be  
17 precluded from expanding into additional services  
18 (including additional applications of existing serv-  
19 ices) or additional areas of business.

20           “(5) CONVERSION TO STOCK CORPORATIONS.—  
21 Any successor entity or separated entity created out  
22 of INTELSAT or Inmarsat shall be a national cor-  
23 poration established through the execution of an ini-  
24 tial public offering as follows:

1           “(A) Any successor entities and separated  
2 entities shall be incorporated as private cor-  
3 porations subject to the laws of the nation in  
4 which incorporated.

5           “(B) An initial public offering of securities  
6 of any successor entity or separated entity shall  
7 be conducted no later than—

8                   “(i) April 1, 2001, for the successor  
9 entities of INTELSAT; and

10                   “(ii) April 1, 2000, for the successor  
11 entities of Inmarsat.

12           “(C) The shares of any successor entities  
13 and separated entities shall be listed for trading  
14 on one or more major stock exchanges with  
15 transparent and effective securities regulation.

16           “(D) A majority of the board of directors  
17 of any successor entity or separated entity shall  
18 not be subject to selection or appointment by,  
19 or otherwise serve as representatives of—

20                   “(i) any signatory or former signatory  
21 that controls access to national tele-  
22 communications markets; or

23                   “(ii) any intergovernmental organiza-  
24 tion remaining after the privatization.

1           “(E) Any transactions or other relation-  
2           ships between or among any successor entity,  
3           separated entity, INTELSAT, or Inmarsat  
4           shall be conducted on an arm’s length basis.

5           “(6) REGULATORY TREATMENT.—Any suc-  
6           cessor entity or separated entity shall apply through  
7           the appropriate national licensing authorities for  
8           international frequency assignments and associated  
9           orbital registrations for all satellites.

10          “(7) COMPETITION POLICIES IN DOMICILIARY  
11          COUNTRY.—Any successor entity or separated entity  
12          shall be incorporated and headquartered in a nation  
13          or nations that—

14                 “(A) have effective laws and regulations  
15                 that secure competition in telecommunications  
16                 services;

17                 “(B) are signatories of the World Trade  
18                 Organization Basic Telecommunications Serv-  
19                 ices Agreement; and

20                 “(C) have a schedule of commitments in  
21                 such Agreement that includes non-discrimina-  
22                 tory market access to their satellite markets.

23          “(8) RETURN OF UNUSED ORBITAL LOCA-  
24          TIONS.—INTELSAT, Inmarsat, and any successor

1 entities and separated entities shall not be permitted  
2 to warehouse any orbital location that—

3 “(A) as of March 25, 1998, did not con-  
4 tain a satellite that was providing commercial  
5 services, or, subsequent to such date, ceased to  
6 contain a satellite providing commercial serv-  
7 ices; or

8 “(B) as of March 25, 1998, was not des-  
9 igned in INTELSAT or Inmarsat operational  
10 plans for satellites for which construction con-  
11 tracts had been executed.

12 Any such orbital location of INTELSAT or  
13 Inmarsat and of any successor entities and sepa-  
14 rated entities shall be returned to the International  
15 Telecommunication Union for reallocation.

16 “(9) APPRAISAL OF ASSETS.—Before any trans-  
17 fer of assets by INTELSAT or Inmarsat to any suc-  
18 cessor entity or separated entity, such assets shall be  
19 independently audited for purposes of appraisal, at  
20 both book and fair market value.

21 “(10) LIMITATION ON INVESTMENT.—Notwith-  
22 standing the provisions of this title, COMSAT shall  
23 not be authorized by the Commission to invest in a  
24 satellite known as K-TV, unless Congress authorizes  
25 such investment.



1 **“SEC. 622. SPECIFIC CRITERIA FOR INTELSAT.**

2 “In securing the privatizations required by section  
3 621, the following additional criteria with respect to  
4 INTELSAT privatization shall be applied as licensing cri-  
5 teria for purposes of subtitle A:

6 “(1) NUMBER OF COMPETITORS.—The number  
7 of competitors in the markets served by  
8 INTELSAT, including the number of competitors  
9 created out of INTELSAT, shall be sufficient to cre-  
10 ate a fully competitive market.

11 “(2) PREVENTION OF EXPANSION DURING  
12 TRANSITION.—

13 “(A) IN GENERAL.—Pending privatization  
14 in accordance with the criteria in this title,  
15 INTELSAT shall not expand by receiving addi-  
16 tional orbital locations, placing new satellites in  
17 existing locations, or procuring new or addi-  
18 tional satellites except as permitted by subpara-  
19 graph (B), and the United States shall oppose  
20 such expansion—

21 “(i) in INTELSAT, including at the  
22 Assembly of Parties;

23 “(ii) in the International Tele-  
24 communication Union;

25 “(iii) through United States instruc-  
26 tions to COMSAT;

1           “(iv) in the Commission, through de-  
2           clining to facilitate the registration of addi-  
3           tional orbital locations or the provision of  
4           additional services (including additional  
5           applications of existing services) or addi-  
6           tional areas of business; and

7           “(v) in other appropriate fora.

8           “(B) EXCEPTION FOR CERTAIN REPLACE-  
9           MENT SATELLITES.—The limitations in sub-  
10          paragraph (A) shall not apply to any replace-  
11          ment satellites if—

12           “(i) such replacement satellite is used  
13           solely to provide public-switched network  
14           voice telephony or occasional-use television  
15           services, or both;

16           “(ii) such replacement satellite is pro-  
17           cured pursuant to a construction contract  
18           that was executed on or before March 25,  
19           1998; and

20           “(iii) construction of such replacement  
21           satellite commences on or before the final  
22           date for INTELSAT privatization set forth  
23           in section 621(1)(A).

24           “(3) TECHNICAL COORDINATION AMONG SIG-  
25          NATORIES.—Technical coordination shall not be used

1 to impair competition or competitors, and coordina-  
2 tion under Article XIV(d) of the INTELSAT Agree-  
3 ment shall be eliminated.

4 **“SEC. 623. SPECIFIC CRITERIA FOR INTELSAT SEPARATED**  
5 **ENTITIES.**

6 “In securing the privatizations required by section  
7 621, the following additional criteria with respect to any  
8 INTELSAT separated entity shall be applied as licensing  
9 criteria for purposes of subtitle A:

10 “(1) DATE FOR PUBLIC OFFERING.—Within  
11 one year after any decision to create any separated  
12 entity, a public offering of the securities of such en-  
13 tity shall be conducted.

14 “(2) PRIVILEGES AND IMMUNITIES.—The privi-  
15 leges and immunities of INTELSAT and its signato-  
16 ries shall be waived with respect to any transactions  
17 with any separated entity, and any limitations on  
18 private causes of action that would otherwise gen-  
19 erally be permitted against any separated entity  
20 shall be eliminated.

21 “(3) INTERLOCKING DIRECTORATES OR EM-  
22 PLOYEES.—None of the officers, directors, or em-  
23 ployees of any separated entity shall be individuals  
24 who are officers, directors, or employees of  
25 INTELSAT.

1           “(4) SPECTRUM ASSIGNMENTS.—After the ini-  
2           tial transfer which may accompany the creation of a  
3           separated entity, the portions of the electromagnetic  
4           spectrum assigned as of the date of enactment of  
5           this title to INTELSAT shall not be transferred be-  
6           tween INTELSAT and any separated entity.

7           “(5) REAFFILIATION PROHIBITED.—Any merg-  
8           er or ownership or management ties or exclusive ar-  
9           rangements between a privatized INTELSAT or any  
10          successor entity and any separated entity shall be  
11          prohibited until 15 years after the completion of  
12          INTELSAT privatization under this title.

13       **“SEC. 624. SPECIFIC CRITERIA FOR INMARSAT.**

14          “In securing the privatizations required by section  
15       621, the following additional criteria with respect to  
16       Inmarsat privatization shall be applied as licensing criteria  
17       for purposes of subtitle A:

18           “(1) MULTIPLE SIGNATORIES AND DIRECT AC-  
19           CESS.—Multiple signatories and direct access to  
20           Inmarsat shall be permitted.

21           “(2) PREVENTION OF EXPANSION DURING  
22           TRANSITION.—Pending privatization in accordance  
23           with the criteria in this title, Inmarsat should not  
24           expand by receiving additional orbital locations, plac-  
25           ing new satellites in existing locations, or procuring

1 new or additional satellites, except for specified re-  
2 placement satellites for which construction contracts  
3 have been executed as of March 25, 1998, and the  
4 United States shall oppose such expansion—

5 “(A) in Inmarsat, including at the Council  
6 and Assembly of Parties;

7 “(B) in the International Telecommuni-  
8 cation Union;

9 “(C) through United States instructions to  
10 COMSAT;

11 “(D) in the Commission, through declining  
12 to facilitate the registration of additional orbital  
13 locations or the provision of additional services  
14 (including additional applications of existing  
15 services) or additional areas of business; and

16 “(E) in other appropriate fora.

17 This paragraph shall not be construed as limiting  
18 the maintenance, assistance or improvement of the  
19 GMDSS.

20 “(3) NUMBER OF COMPETITORS.—The number  
21 of competitors in the markets served by Inmarsat,  
22 including the number of competitors created out of  
23 Inmarsat, shall be sufficient to create a fully com-  
24 petitive market.

1           “(4) REAFFILIATION PROHIBITED.—Any merg-  
2 er or ownership or management ties or exclusive ar-  
3 rangements between Inmarsat or any successor enti-  
4 ty or separated entity and ICO shall be prohibited  
5 until 15 years after the completion of Inmarsat pri-  
6 vatization under this title.

7           “(5) INTERLOCKING DIRECTORATES OR EM-  
8 PLOYEES.—None of the officers, directors, or em-  
9 ployees of Inmarsat or any successor entity or sepa-  
10 rated entity shall be individuals who are officers, di-  
11 rectors, or employees of ICO.

12           “(6) SPECTRUM ASSIGNMENTS.—The portions  
13 of the electromagnetic spectrum assigned as of the  
14 date of enactment of this title to Inmarsat—

15           “(A) shall, after January 1, 2006, or the  
16 date on which the life of the current generation  
17 of Inmarsat satellites ends, whichever is later,  
18 be made available for assignment to all systems  
19 (including the privatized Inmarsat) on a non-  
20 discriminatory basis and in a manner in which  
21 continued availability of the GMDSS is pro-  
22 vided; and

23           “(B) shall not be transferred between  
24 Inmarsat and ICO.

1           “(7) PRESERVATION OF THE GMDSS.—The  
2           United States shall seek to preserve space segment  
3           capacity of the GMDSS.

4   **“SEC. 625. ENCOURAGING MARKET ACCESS AND PRIVAT-**  
5           **IZATION.**

6           “(a) NTLA DETERMINATION.—

7           “(1) DETERMINATION REQUIRED.—Within 180  
8           days after the date of enactment of this section, the  
9           Secretary of Commerce shall, through the Assistant  
10          Secretary for Communications and Information,  
11          transmit to the Commission—

12                  “(A) a list of Member countries of  
13                  INTELSAT and Inmarsat that are not Mem-  
14                  bers of the World Trade Organization and that  
15                  impose barriers to market access for private  
16                  satellite systems; and

17                  “(B) a list of Member countries of  
18                  INTELSAT and Inmarsat that are not Mem-  
19                  bers of the World Trade Organization and that  
20                  are not supporting pro-competitive privatization  
21                  of INTELSAT and Inmarsat.

22           “(2) CONSULTATION.—The Secretary’s deter-  
23           minations under paragraph (1) shall be made in con-  
24           sultation with the Federal Communications Commis-  
25           sion, the Secretary of State, and the United States

1 Trade Representative, and shall take into account  
2 the totality of a country's actions in all relevant  
3 fora, including the Assemblies of Parties of  
4 INTELSAT and Inmarsat.

5 “(b) IMPOSITION OF COST-BASED SETTLEMENT  
6 RATE.—Notwithstanding—

7 “(1) any higher settlement rate that an over-  
8 seas carrier charges any United States carrier to  
9 originate or terminate international message tele-  
10 phone services; and

11 “(2) any transition period that would otherwise  
12 apply,

13 the Commission may by rule prohibit United States car-  
14 riers from paying an amount in excess of a cost-based set-  
15 tlement rate to overseas carriers in countries listed by the  
16 Commission pursuant to subsection (a).

17 “(c) SETTLEMENTS POLICY.—The Commission shall,  
18 in exercising its authority to establish settlements rates  
19 for United States international common carriers, seek to  
20 advance United States policy in favor of cost-based settle-  
21 ments in all relevant fora on international telecommuni-  
22 cations policy, including in meetings with parties and sig-  
23 natories of INTELSAT and Inmarsat.



1       **“Subtitle C—Deregulation and**  
2               **Other Statutory Changes**

3       **“SEC. 641. ACCESS TO INTELSAT.**

4           “(a) ACCESS PERMITTED.—Beginning on the date of  
5 enactment of this title, users or providers of telecommuni-  
6 cations services shall be permitted to obtain direct access  
7 to INTELSAT telecommunications services and space  
8 segment capacity through purchases of such capacity or  
9 services from, or through investment in, INTELSAT.

10          “(b) RULEMAKING.—Within 180 days after the date  
11 of enactment of this title, the Commission shall complete  
12 a rulemaking, with notice and opportunity for submission  
13 of comment by interested persons, to determine if users  
14 or providers of telecommunications services have sufficient  
15 opportunity to access INTELSAT space segment capacity  
16 directly from INTELSAT to meet their service or capacity  
17 requirements. If the Commission determines that such op-  
18 portunity to access does not exist, the Commission shall  
19 take appropriate action to facilitate such direct access pur-  
20 suant to its authority under this Act and the Communica-  
21 tions Act of 1934. The Commission shall take such steps  
22 as may be necessary to prevent the circumvention of the  
23 intent of this section.

1       “(c) CONTRACT PRESERVATION.—Nothing in this  
2 section shall be construed to permit the abrogation or  
3 modification of any contract.

4       **“SEC. 642. SIGNATORY ROLE.**

5       “(a) LIMITATIONS ON SIGNATORIES.—

6               “(1) NATIONAL SECURITY LIMITATIONS.—The  
7 Federal Communications Commission, after a public  
8 interest determination, in consultation with the execu-  
9 tive branch, may restrict foreign ownership of a  
10 United States signatory if the Commission deter-  
11 mines that not to do so would constitute a threat to  
12 national security.

13               “(2) NO SIGNATORIES REQUIRED.—The United  
14 States Government shall not require signatories to  
15 represent the United States in INTELSAT or  
16 Inmarsat or in any successor entities after a pro-  
17 competitive privatization is achieved consistent with  
18 sections 621, 622, and 624.

19       “(b) CLARIFICATION OF PRIVILEGES AND IMMUNI-  
20 TIES OF COMSAT.—

21               “(1) GENERALLY NOT IMMUNIZED.—Notwith-  
22 standing any other law or executive agreement,  
23 COMSAT shall not be entitled to any privileges or  
24 immunities under the laws of the United States or

1 any State on the basis of its status as a signatory  
2 of INTELSAT or Inmarsat.

3 “(2) LIMITED IMMUNITY.—COMSAT and any  
4 other company functioning as United States signa-  
5 tory to INTELSAT or Inmarsat shall not be liable  
6 for action taken by it in carrying out the specific,  
7 written instruction of the United States issued in  
8 connection with its relationships and activities with  
9 foreign governments, international entities, and the  
10 intergovernmental satellite organizations.

11 “(3) PROVISIONS PROSPECTIVE.—Paragraph  
12 (1) shall not apply with respect to liability for any  
13 action taken by COMSAT before the date of enact-  
14 ment of the Communications Satellite Competition  
15 and Privatization Act of 1999.

16 “(c) PARITY OF TREATMENT.—Notwithstanding any  
17 other law or executive agreement, the Commission shall  
18 have the authority to impose similar regulatory fees on  
19 the United States signatory which it imposes on other en-  
20 tities providing similar services.

21 **“SEC. 643. ELIMINATION OF PROCUREMENT PREFERENCES.**

22 “Nothing in this title or the Communications Act of  
23 1934 shall be construed to authorize or require any pref-  
24 erence, in Federal Government procurement of tele-  
25 communications services, for the satellite space segment

1 provided by INTELSAT, Inmarsat, or any successor enti-  
2 ty or separated entity.

3 **“SEC. 644. USE OF ITU TECHNICAL COORDINATION.**

4 “The Commission and United States satellite compa-  
5 nies shall utilize the International Telecommunication  
6 Union procedures for technical coordination with  
7 INTELSAT and its successor entities and separated enti-  
8 ties, rather than INTELSAT procedures.

9 **“SEC. 645. TERMINATION OF COMMUNICATIONS SATELLITE**  
10 **ACT OF 1962 PROVISIONS.**

11 “Effective on the dates specified, the following provi-  
12 sions of this Act shall cease to be effective:

13 “(1) Date of enactment of this title: Sections  
14 101 and 102; paragraphs (1), (5) and (6) of section  
15 201(a); section 301; section 303; section 502; and  
16 paragraphs (2) and (4) of section 504(a).

17 “(2) On the effective date of the Commission’s  
18 order that establishes direct access to INTELSAT  
19 space segment: Paragraphs (1), (3) through (5), and  
20 (8) through (10) of section 201(c); and section 304.

21 “(3) On the effective date of the Commission’s  
22 order that establishes direct access to Inmarsat  
23 space segment: Subsections (a) through (d) of sec-  
24 tion 503.

1           “(4) On the effective date of a Commission  
2 order determining under section 601(b)(2) that  
3 Inmarsat privatization is consistent with criteria in  
4 sections 621 and 624: Section 504(b).

5           “(5) On the effective date of a Commission  
6 order determining under section 601(b)(2) that  
7 INTELSAT privatization is consistent with criteria  
8 in sections 621 and 622: Paragraphs (2) and (4) of  
9 section 201(a); section 201(c)(2); subsection (a) of  
10 section 403; and section 404.

11 **“SEC. 646. REPORTS TO CONGRESS.**

12           “(a) ANNUAL REPORTS.—The President and the  
13 Commission shall report to the Committees on Commerce  
14 and International Relations of the House of Representa-  
15 tives and the Committees on Commerce, Science, and  
16 Transportation and Foreign Relations of the Senate with-  
17 in 90 calendar days of the enactment of this title, and  
18 not less than annually thereafter, on the progress made  
19 to achieve the objectives and carry out the purposes and  
20 provisions of this title. Such reports shall be made avail-  
21 able immediately to the public.

22           “(b) CONTENTS OF REPORTS.—The reports sub-  
23 mitted pursuant to subsection (a) shall include the fol-  
24 lowing:

1           “(1) Progress with respect to each objective  
2           since the most recent preceding report.

3           “(2) Views of the Parties with respect to privat-  
4           ization.

5           “(3) Views of industry and consumers on pri-  
6           vatization.

7           “(4) Impact privatization has had on United  
8           States industry, United States jobs, and United  
9           States industry’s access to the global marketplace.

10 **“SEC. 647. CONSULTATION WITH CONGRESS.**

11           “The President’s designees and the Commission shall  
12           consult with the Committees on Commerce and Inter-  
13           national Relations of the House of Representatives and  
14           the Committees on Commerce, Science, and Transpor-  
15           tation and Foreign Relations of the Senate prior to each  
16           meeting of the INTELSAT or Inmarsat Assembly of Par-  
17           ties, the INTELSAT Board of Governors, the Inmarsat  
18           Council, or appropriate working group meetings.

19 **“SEC. 648. SATELLITE AUCTIONS.**

20           “Notwithstanding any other provision of law, the  
21           Commission shall not have the authority to assign by com-  
22           petitive bidding orbital locations or spectrum used for the  
23           provision of international or global satellite communica-  
24           tions services. The President shall oppose in the Inter-  
25           national Telecommunication Union and in other bilateral

1 and multilateral fora any assignment by competitive bid-  
2 ding of orbital locations or spectrum used for the provision  
3 of such services.

4 **“SEC. 649. EXCLUSIVITY ARRANGEMENTS.**

5       “(a) IN GENERAL.—No satellite operator shall ac-  
6 quire or enjoy the exclusive right of handling telecommuni-  
7 cations to or from the United States, its territories or pos-  
8 sessions, and any other country or territory by reason of  
9 any concession, contract, understanding, or working ar-  
10 rangement to which the satellite operator or any persons  
11 or companies controlling or controlled by the operator are  
12 parties.

13       “(b) EXCEPTION.—In enforcing the provisions of this  
14 section, the Commission—

15               “(1) shall not require the termination of exist-  
16 ing satellite telecommunications services under con-  
17 tract with, or tariff commitment to, such satellite  
18 operator; but

19               “(2) may require the termination of new serv-  
20 ices only to the country that has provided the exclu-  
21 sive right to handle telecommunications, if the Com-  
22 mission determines the public interest, convenience,  
23 and necessity so requires.

1           **“Subtitle D—Negotiations To**  
2                           **Pursue Privatization**

3   **“SEC. 661. METHODS TO PURSUE PRIVATIZATION.**

4           “The President shall secure the pro-competitive  
5 privatizations required by this title in a manner that meets  
6 the criteria in subtitle B.

7                           **“Subtitle E—Definitions**

8   **“SEC. 681. DEFINITIONS.**

9           “(a) IN GENERAL.—As used in this title:

10                   “(1) INTELSAT.—The term ‘INTELSAT’  
11 means the International Telecommunications Sat-  
12 ellite Organization established pursuant to the  
13 Agreement Relating to the International Tele-  
14 communications       Satellite       Organization  
15 (INTELSAT).

16                   “(2) INMARSAT.—The term ‘Inmarsat’ means  
17 the International Mobile Satellite Organization es-  
18 tablished pursuant to the Convention on the Inter-  
19 national Maritime Organization.

20                   “(3) SIGNATORIES.—The term ‘signatories’—

21                           “(A) in the case of INTELSAT, or  
22 INTELSAT successors or separated entities,  
23 means a Party, or the telecommunications enti-  
24 ty designated by a Party, that has signed the  
25 Operating Agreement and for which such



1 Agreement has entered into force or to which  
2 such Agreement has been provisionally applied;  
3 and

4 “(B) in the case of Inmarsat, or Inmarsat  
5 successors or separated entities, means either a  
6 Party to, or an entity that has been designated  
7 by a Party to sign, the Operating Agreement.

8 “(4) PARTY.—The term ‘Party’—

9 “(A) in the case of INTELSAT, means a  
10 nation for which the INTELSAT agreement  
11 has entered into force or been provisionally ap-  
12 plied; and

13 “(B) in the case of Inmarsat, means a na-  
14 tion for which the Inmarsat convention has en-  
15 tered into force.

16 “(5) COMMISSION.—The term ‘Commission’  
17 means the Federal Communications Commission.

18 “(6) INTERNATIONAL TELECOMMUNICATION  
19 UNION.—The term ‘International Telecommuni-  
20 cation Union’ means the intergovernmental organi-  
21 zation that is a specialized agency of the United Na-  
22 tions in which member countries cooperate for the  
23 development of telecommunications, including adop-  
24 tion of international regulations governing terrestrial

1 and space uses of the frequency spectrum as well as  
2 use of the geostationary satellite orbit.

3 “(7) SUCCESSOR ENTITY.—The term ‘successor  
4 entity’—

5 “(A) means any privatized entity created  
6 from the privatization of INTELSAT or  
7 Inmarsat or from the assets of INTELSAT or  
8 Inmarsat; but

9 “(B) does not include any entity that is a  
10 separated entity.

11 “(8) SEPARATED ENTITY.—The term ‘sepa-  
12 rated entity’ means a privatized entity to whom a  
13 portion of the assets owned by INTELSAT or  
14 Inmarsat are transferred prior to full privatization  
15 of INTELSAT or Inmarsat, including in particular  
16 the entity whose structure was under discussion by  
17 INTELSAT as of March 25, 1998, but excluding  
18 ICO.

19 “(9) ORBITAL LOCATION.—The term ‘orbital lo-  
20 cation’ means the location for placement of a sat-  
21 ellite on the geostationary orbital arc as defined in  
22 the International Telecommunication Union Radio  
23 Regulations.

24 “(10) SPACE SEGMENT.—The term ‘space seg-  
25 ment’ means the satellites, and the tracking, telem-

1       etry, command, control, monitoring and related fa-  
2       cilities and equipment used to support the operation  
3       of satellites owned or leased by INTELSAT,  
4       Inmarsat, or a separated entity or successor entity.

5           “(11) NON-CORE SERVICES.—The term ‘non-  
6       core services’ means, with respect to INTELSAT  
7       provision, services other than public-switched net-  
8       work voice telephony and occasional-use television,  
9       and with respect to Inmarsat provision, services  
10      other than global maritime distress and safety serv-  
11      ices or other existing maritime or aeronautical serv-  
12      ices for which there are not alternative providers.

13          “(12) ADDITIONAL SERVICES.—The term ‘addi-  
14      tional services’ means Internet services, high-speed  
15      data, interactive services, non-maritime or non-aero-  
16      nautical mobile services, Direct to Home (DTH) or  
17      Direct Broadcast Satellite (DBS) video services, or  
18      Ka-band services.

19          “(13) INTELSAT AGREEMENT.—The term  
20      ‘INTELSAT Agreement’ means the Agreement Re-  
21      lating to the International Telecommunications Sat-  
22      ellite Organization (‘INTELSAT’), including all its  
23      annexes (TIAS 7532, 23 UST 3813).

24          “(14) HEADQUARTERS AGREEMENT.—The term  
25      ‘Headquarters Agreement’ means the International

1       Telecommunication Satellite Organization Head-  
2       quarters Agreement (November 24, 1976) (TIAS  
3       8542, 28 UST 2248).

4               “(15) OPERATING AGREEMENT.—The term  
5       ‘Operating Agreement’ means—

6                       “(A) in the case of INTELSAT, the agree-  
7                       ment, including its annex but excluding all ti-  
8                       tles of articles, opened for signature at Wash-  
9                       ington on August 20, 1971, by Governments or  
10                      telecommunications entities designated by Gov-  
11                      ernments in accordance with the provisions of  
12                      the Agreement; and

13                     “(B) in the case of Inmarsat, the Oper-  
14                     ating Agreement on the International Maritime  
15                     Satellite Organization, including its annexes.

16               “(16) INMARSAT CONVENTION.—The term  
17       ‘Inmarsat Convention’ means the Convention on the  
18       International Maritime Satellite Organization  
19       (Inmarsat) (TIAS 9605, 31 UST 1).

20               “(17) NATIONAL CORPORATION.—The term  
21       ‘national corporation’ means a corporation the own-  
22       ership of which is held through publicly traded secu-  
23       rities, and that is incorporated under, and subject  
24       to, the laws of a national, state, or territorial gov-  
25       ernment.

1           “(18) COMSAT.—The term ‘COMSAT’ means  
2           the corporation established pursuant to title III of  
3           the Communications Satellite Act of 1962 (47  
4           U.S.C. 731 et seq.)

5           “(19) ICO.—The term ‘ICO’ means the com-  
6           pany known, as of the date of enactment of this  
7           title, as ICO Global Communications, Inc.

8           “(20) REPLACEMENT SATELLITE.—The term  
9           ‘replacement satellite’ means a satellite that replaces  
10          a satellite that fails prior to the end of the duration  
11          of contracts for services provided over such satellite  
12          and that takes the place of a satellite designated for  
13          the provision of public-switched network and occa-  
14          sional-use television services under contracts exe-  
15          cuted prior to March 25, 1998 (but not including  
16          K-TV or similar satellites). A satellite is only con-  
17          sidered a replacement satellite to the extent such  
18          contracts are equal to or less than the design life of  
19          the satellite.

20          “(21) GLOBAL MARITIME DISTRESS AND SAFE-  
21          TY SERVICES OR GMDSS.—The term ‘global maritime  
22          distress and safety services’ or ‘GMDSS’ means the  
23          automated ship-to-shore distress alerting system  
24          which uses satellite and advanced terrestrial systems  
25          for international distress communications and pro-

1 moting maritime safety in general. The GMDSS per-  
2 mits the worldwide alerting of vessels, coordinated  
3 search and rescue operations, and dissemination of  
4 maritime safety information.

5 “(b) COMMON TERMINOLOGY.—Except as otherwise  
6 provided in subsection (a), terms used in this title that  
7 are defined in section 3 of the Communications Act of  
8 1934 have the meanings provided in such section.”.

○