

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

In the Matter of Inmarsat Ventures Limited )
Request for Extension of Time Under Section )
621(5) of the Communications Satellite Act of )
1962, as amended by the Open-Market ) SAT-MS-C-20040210-00027
Reorganization for the Betterment of International )
Telecommunications Act. )
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)
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Order

Adopted: June 24, 2004

Released: June 25, 2004

By the International Bureau:

I. INTRODUCTION

1. In this Order, we grant the request of Inmarsat Ventures Limited ("Inmarsat") for a six-month extension of the June 30, 2004 deadline for conducting an initial public offering ("IPO") as set forth in Section 621(5)(A)(ii) of the Communications Satellite Act of 1962, as amended by the Open-Market Reorganization for the Betterment of International Telecommunications Act (the "ORBIT Act").

II. BACKGROUND

2. The International Maritime Satellite Organization was established by treaty in 1978 as an intergovernmental satellite organization ("IGO") to develop a global maritime satellite system to meet commercial maritime and safety communications needs of the United States and foreign countries. The ORBIT Act establishes criteria for Commission review of applications to serve the U.S. market by "successor entities" of the International Maritime Satellite Organization such as Inmarsat. Inmarsat is, therefore, subject to the requirement of Section 621(5)(A)(ii), that it conduct an initial public offering by the specific deadline stated under this provision of the ORBIT Act. The ORBIT Act initially required an IPO to be conducted by October 1, 2000, but Congress has amended the ORBIT Act several times to

1 47 U.S.C. § 763(5)(A)(ii). Congress amended the Satellite Communications Act of 1962, 47 U.S.C. §§ 701 et seq. (Satellite Act) by adopting the ORBIT Act, Pub. L. No. 106-180, 114 Stat. 48 (2000), codified at 47 U.S.C. § 761 et seq. The ORBIT Act adds Title VI to the Satellite Act, entitled "Communications Competition and Privatization."

2 Convention of the International Maritime Satellite Organization and Operating Agreement of the International Maritime Satellite Organization (INMARSAT), opened for signature September 3, 1976, 31 U.S.T. 1, T.I.A.S. No. 9605 (entered into force July 16, 1979) ("Inmarsat Convention").

3 The ORBIT Act also applies to the International Telecommunications Satellite Organization ("INTELSAT"). INTELSAT and Inmarsat were originally intergovernmental satellite organizations ("IGOs") created by international agreements, as a result of initiatives undertaken in the early days of development of space technology by the United States under the Communications Satellite Act of 1962.

extend the statutory deadline for an IPO.<sup>4</sup> On June 30, 2003, Congress amended Section 621(5)(A)(ii) of the ORBIT Act, to require Inmarsat to conduct its IPO by June 30, 2004 and to grant the Commission discretion to extend this deadline to no later than December 31, 2004.<sup>5</sup>

3. On February 10, 2004, Inmarsat filed a letter informing the Commission of two transactions, which it described as meeting the IPO requirements under the ORBIT Act.<sup>6</sup> The *February 10<sup>th</sup> Letter* was placed on public notice on March 5, 2004, and the pleading cycle closed on April 5, 2004.<sup>7</sup> The Commission is currently reviewing Inmarsat's filing, along with pleadings filed in response to the public notice.<sup>8</sup> In its filing of April 20, 2004, Inmarsat requests that we exercise the discretion granted by Congress to provide Inmarsat until December 31, 2004, to satisfy the IPO requirements of the ORBIT Act in the event that the Commission concludes that its transactions, as set forth in its *February 10<sup>th</sup> Letter*, are not consistent with the Act.<sup>9</sup> In a May 26, 2004, supplemental filing, Inmarsat explains that market factors and relevant business factors support such extension.<sup>10</sup> Further, Inmarsat states that grant of an extension would, among other things, allow Inmarsat time to address any issues identified by the Commission should the Commission find that Inmarsat has not satisfied the IPO requirements of the ORBIT Act.<sup>11</sup>

### III. DISCUSSION

4. The ORBIT Act provides that:

- (A) An initial public offering of securities of any successor entity or separated entity...  
(ii) shall be conducted, for the successor entities of Inmarsat, not later than June 30, 2004, except that the Commission may extend this deadline to not later than December 31, 2004.<sup>12</sup>

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<sup>4</sup> Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-77, § 628, 115 Stat. 748, 804 (2001); Orbit Technical Corrections Act of 2003, Pub. L. No. 108-39 (2003). In addition to extending the IPO statutory deadline, in 2001, Congress struck the criteria under Section 621(5)(A) of the ORBIT Act, which originally directed the Commission to consider "market conditions and relevant business factors" when evaluating the timeframe for Inmarsat's initial public offering, thereby broadening the scope of the Commission's discretion in determining whether it could grant Inmarsat an extension of the IPO deadline.

<sup>5</sup> See Orbit Technical Corrections Act of 2003, Pub. L. No. 108-39 (2003). The Commission has extended the IPO deadlines for Inmarsat on two occasions. See *Inmarsat Ventures Ltd., Request for Extension of Time Under Section 621(5) of the ORBIT Act*, Memorandum Opinion and Order, 15 FCC Rcd 19740 (2000) (*First Inmarsat Extension Order*); *Inmarsat Ventures Ltd., Request for Extension of Time Under Section 621(5) of the ORBIT Act*, Memorandum Opinion and Order, 16 FCC Rcd 13494 (2001) (*Second Inmarsat Extension Order*). The International Bureau has also granted an extension to Inmarsat pursuant to a delegation of authority by the Commission. See *Inmarsat Ventures Ltd, Request for Extension of Time Under Section 651(5) of the ORBIT Act*, 17 FCC Rcd 25283 (Int'l Bur. 2002) (*Third Inmarsat Extension Order*).

<sup>6</sup> Letter from Alan Auckenthaler, Inmarsat, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission (filed Feb. 10, 2004) ("*February 10th Letter*").

<sup>7</sup> Public Notice, Policy Branch Information, Report No. SAT-00197 (March 5, 2004).

<sup>8</sup> See, e.g., Response of Mobile Satellite Ventures Subsidiary LLC (filed April 30, 2004) ("MSV"). MSV, the only party commenting directly on the extension request, argued that Inmarsat Ltd. has failed to provide evidence that market conditions warrant such an extension.

<sup>9</sup> Consolidated Response of Inmarsat at 38 (filed April 20, 2004) ("*Inmarsat Consolidated Response*").

<sup>10</sup> Letter from Alan Auckenthaler, Inmarsat, to Marlene H. Dortch, Secretary, Federal Communications Commission (dated May 26, 2004) ("*May 26th Inmarsat Letter*").

<sup>11</sup> *Id.*

<sup>12</sup> 47 U.S.C. §763(5)(A)(ii).

In the past, the Commission and the Bureau have found that continued due diligence on the part of Inmarsat in attempting to meet its ORBIT Act requirements has justified IPO extensions.<sup>13</sup> Inmarsat states that it is continuing to take steps to satisfy its ORBIT Act requirements. For instance, Inmarsat recounts that since the passage of the ORBIT Act in 2000, it has made efforts to satisfy the IPO requirements of the ORBIT Act despite the difficulties that the stock markets world-wide have experienced.<sup>14</sup> Furthermore, while we have made no determination to date on the merits of Inmarsat's *February 10<sup>th</sup> Letter* and responsive pleadings filed in late April, extension of the IPO deadline at this late date would give the Commission sufficient time to review and evaluate the entire record and render a decision. Thus, based upon all circumstances, including Inmarsat's representations and ORBIT Act revisions giving the Commission discretion in determining whether to extend Inmarsat's IPO deadlines, we conclude that an extension of the IPO deadline is warranted. We thereby make clear that services previously authorized by the Commission, which use the Inmarsat system, may continue, subject to the conditions in those authorizations.<sup>15</sup>

#### IV. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED, pursuant to Sections 621(2) and 621(5) of the Satellite Communications Act of 1962, as amended by the Open-Market Reorganization for the Betterment of International Telecommunications Act, and Section 628 of the Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-77, 115 Stat. 748, 804 (2001), 47 U.S.C. §§ 763(2), 763(5), that Inmarsat Ventures Ltd.'s request for an extension of the June 30, 2004 deadline to December 31, 2004 IS GRANTED, as noted above.

6. IT IS FURTHER ORDERED that this Order shall be effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson  
Chief, International Bureau

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<sup>13</sup> *First Inmarsat Extension Order*, 15 FCC Rcd at 19742-43 ¶¶ 8-10; *Second Inmarsat Extension Order*, 16 FCC Rcd at 13499-13500 ¶ 18; *Third Inmarsat Extension Order*, 17 FCC Rcd at 25285 ¶ 9.

<sup>14</sup> *May 26th Inmarsat Letter* at 2, 4. See also *First Inmarsat Extension Order*, 15 FCC Rcd 19740; *Second Inmarsat Extension Order*, 16 FCC Rcd; *Third Inmarsat Extension Order*, 17 FCC Rcd 25283.

<sup>15</sup> See, e.g., *Comsat Corporation, d/b/a Comsat Mobile Communications*, Memorandum Opinion, Order and Authorization, 16 FCC Rcd 21661 (2001) ("*Inmarsat Market Access Order*").