



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

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**EX PARTE PROCEDURES MODIFIED FOR FORMAL COMPLAINT FILED BY
COMSAT CORPORATION AGAINST STRATOS MOBILE NETWORKS (USA) LLC.
(FILE NO. E-99-27)**

On September 10, 1999, Comsat Corporation ("Comsat") filed a formal complaint against Stratos Mobile Networks (USA) LLC. ("Stratos"), File No. E-99-27. In the complaint, Comsat alleges, *inter alia*, that: (1) Stratos is violating the International Maritime Satellite Telecommunications Act of 1978, 47 U.S.C. §§ 751-757 (the "Maritime Satellite Act"), related Commission orders, and the Inmarsat Convention and Operating Agreement, by refusing to pay Comsat for the Inmarsat space segment owned by Comsat; and (2) Stratos is violating its FCC service authorizations by securing Inmarsat space satellite capacity for its U.S. land earth stations from a source other than Comsat.

Previously, on February 23, 1998, Stratos and IDB Mobile Communications, Inc. ("IDB") had filed a petition for declaratory ruling asking the Commission: (1) to rule on the question of whether the public interest supported "expressly permitting" U.S. carriers to bypass Comsat for Inmarsat satellite capacity; and (2) to "confirm" that the Maritime Satellite Act allows U.S. carriers to bypass Comsat and secure Inmarsat satellite capacity from foreign signatories. See Stratos Mobile Networks (USA), LLC and IDB Mobile Communications, Inc., Petition for Declaratory Ruling, File No. ISP-98-003 (filed Feb. 23, 1998). The petition for declaratory ruling currently is pending. As a petition for declaratory ruling, this is a "permit-but-disclose" proceeding under the Commission's *ex parte* rules. See 47 C.F.R. § 1.1206(a)(3).

In a formal complaint filed on January 7, 1999, and directed against IDB (File No. E-99-08), Comsat made allegations similar to those in its complaint against Stratos (File No. E-99-27). In order to preserve the Commission staff's ability to discuss and obtain information needed to resolve issues raised in certain related "permit-but-disclose" proceedings, the staff modified the *ex parte* procedures applicable to that proceeding (File No. E-99-08), making it also a "permit-but-disclose" proceeding. See Public Notice, 14 FCC Rcd 1047 (rel. Jan. 20, 1999). We found that the public interest in expeditiously resolving issues raised in those "permit-but-disclose" proceedings would best be served by ensuring that *ex parte* considerations not encumber the Commission's ability to act during the pendency of the File No. E-99-08 formal complaint proceeding. We concluded that "permit-but-disclose" *ex parte* procedures would sufficiently protect the parties' interest in having that complaint adjudicated in a fair manner and that the public interest would be served by changing the "restricted" status of the proceeding to the "permit-but-disclose" procedures set forth in Section 1.1206 of

the Commission's rules, 47 C.F.R. § 1.1206, which were, or had been made, applicable to related proceedings.

"Permit-but-disclose" *ex parte* procedures also have been established with respect to a formal complaint filed by IDB against Comsat, File No. E-97-48, which currently is pending. That proceeding, however, is not concerned with any *de jure* statutory monopoly that Comsat may have had but rather with allegations that Comsat had a *de facto* monopoly position in the market for U.S.-originated fixed-to-mobile Inmarsat B and M services in the Atlantic Ocean Region and the Pacific Ocean Region.

In addition, IDB/Stratos' applications pursuant to Section 214 of the Communications Act for authority to provide Inmarsat -B, -M, and -Mini-M mobile satellite services using U.S. land earth stations (File No. ITC-214-19970924-00580, previous File No. ITC-97-594) and foreign land earth stations (File No. ITC-214-19980130-00053, previous File No. ITC-98-103) have also been subject to the Commission's "permit-but-disclose" *ex parte* rules. In an Order released September 29, 1999, the International Bureau granted in part the U.S. land earth station application, subject to certain conditions and limitations, and granted the foreign land earth station application, subject to certain limitations. In that Order, the International Bureau also deferred consideration of the U.S. land earth station application to the extent it requests authority to provide Inmarsat services involving Mini-M terminals being used in the United States and denied Comsat's petition for reconsideration of the International Bureau's grant to Stratos of special temporary authority to provide fixed to mobile Inmarsat-B and Inmarsat-M services with STU-III capabilities to the U.S. Department of Defense. See Memorandum Opinion and Order and Authorization, DA 99-1805 (rel. Sept. 30, 1999); Public Notice, 13 FCC Rcd 2420 (rel. Jan. 30, 1998) (designating the U.S. land earth station application as a "permit-but-disclose" proceeding); Non Streamlined International Applications Accepted For Filing, Public Notice (rel. June 18, 1999), Report No. TEL-00100NS (listing the foreign land earth station application among other pending "permit-but-disclose" applications).

Pursuant to Section 1.1200(a) of the Commission's rules, 47 C.F.R. § 1.1200(a), we conclude that the public interest in expeditiously resolving issues raised in pending related "permit-but-disclose" proceedings specified in this Public Notice would best be served by similarly ensuring that *ex parte* considerations not encumber the Commission's ability to act in those proceedings during the pendency of Comsat's complaint against Stratos. Accordingly, this Public Notice establishes that **Comsat Corporation v. Stratos Mobile Networks (USA) LLC., File No. E-99-27, is a "permit-but-disclose" proceeding for purposes of the Commission's *ex parte* rules.**

All parties making *ex parte* presentations with respect to the nature and extent of Comsat's statutory monopoly role under the Maritime Satellite Act in this complaint proceeding (File No. E-99-27), and in the proceedings identified in the next paragraph, shall file any written *ex parte* presentations, and summaries of oral *ex parte* presentations, **in all of the proceedings** specified below, in accordance with the procedures established in Section 1.1206. Two copies of any written *ex parte* presentation made, or, if oral, an original and one copy of a memorandum that summarizes the oral *ex parte* presentation, must be submitted to the Secretary for inclusion

in the public record, with copies to the Commissioners or Commission employees involved in the oral presentation. These memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. All such filings should be clearly captioned as *ex parte* presentations, should reference the appropriate file number of each proceeding, and must be filed no later than the next business day after the presentation.

The proceedings that are currently pending before the Commission, or that are subject to administrative reconsideration or review or to judicial review, and in which issues have been raised concerning the nature and extent of Comsat's statutory monopoly role under the Maritime Satellite Act are:

Stratos Mobile Networks (USA), LLC and IDB Mobile Communications, Inc., Petition for Declaratory Ruling, File No. ISP-98-003 (filed Feb. 23, 1998);

Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 16857 (1998), WT Docket No. 98-100, Stratos 1998 petition for reconsideration pending.

IDB Mobile Communications, Inc., Application Pursuant to Section 214 for Authority to Provide Domestic Aeronautical Mobile Satellite Services via the Inmarsat System, File No. ITC-214-19981214-00859;

Applications acted on in Memorandum Opinion and Order and Authorization, DA 99-1805 (rel. Sept. 30, 1999):

Stratos Mobile Networks (USA), LLC, Application for Authority Pursuant to Section 214 to Provide Inmarsat-B, -M, and -Mini-M Services via U.S. Land Earth Stations (File No. ITC-214-19970924-00580, formerly File No. ITC-97-594);

Stratos Mobile Networks (USA), LLC, Application for Authority Pursuant to Section 214 to Provide U.S.-Originated Inmarsat-B, -M, and -Mini-M Services via Foreign Land Earth Stations (File No. ITC-214-19980130-00053, formerly File No. ITC-98-103); and

Stratos Mobile Networks (USA), LLC, Petition for Reconsideration of Grant of Special Temporary Authority to Provide U.S.-Originated Fixed-to-Mobile Inmarsat-B and Inmarsat M services with Secure Telephone Unit (STU-III) Capabilities to the U.S. Department of Defense via Foreign Land Earth Stations (File No. ITC-TAO-19980701-00916);

Comsat Corporation v. IDB Mobile Communications, Inc., File No. E-99-08; and

Comsat Corporation v. Stratos Mobile Networks (USA) LLC., File No. E-99-27.

Questions relating to the formal complaints may be directed to Adrien Auger, Common Carrier Bureau, at (202) 418-0960. Questions relating to Stratos/IDB's petition for declaratory ruling, section 214 applications, and other matters may be directed to Elizabeth Nightingale, International Bureau, at (202) 418-1460. The formal complaint materials, Section 214 applications, Stratos/IDB's petition for declaratory ruling, and the comments, reply and response comments are available for public inspection and copying during regular business hours in the Reference Information Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. Copies can also be obtained from ITS at 1231 20th Street, N.W., Washington, D.C. 20036, or by calling (202) 857-3800.

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