

Legal Issues Concerning Low Earth Orbit Communicating Satellites Opening Remarks of the Panel Moderator

John B. Gantt*

Dr. Mikulka, Dr. Zawels, distinguished representatives and delegates. Good Afternoon.

I am John B. Gantt, a partner in Ober, Kaler, Grimes & Shriver in Washington, practicing law in the area of commercial uses of outer space. I would like to welcome you on behalf of the International Institute of Space Law to our programme on Legal Issues Concerning Low Earth Orbit Communications Satellites, more commonly referred to as ("LEOs"). We have a panel of distinguished speakers from the United States and Europe who during the next hour will briefly review some current major issues concerning LEOs and will be happy to take questions from the audience. Unfortunately, one of our listed speakers, Mr. Mosteshar from the United Kingdom, was detained in London by pressing business matters but sends his greetings and regrets and has also provided copies of the outline of the talk he would have presented. He has asked Mr. Richard Mizrack of the New York Bar to review these briefly with you this afternoon.

Low earth orbit communications satellites (by that I means satellites in orbits lower than the geostationary orbit) have generated considerable interest in government and industrial organizations. They hold the possibility of serving as

technically and operationally feasible means to provide on economically attractive terms mobile personal communications worldwide as an extension of terrestrial cellular communications systems for voice, data and even more advanced uses such as position location and determination.

LEO communications are user driven; users want more flexible communications opportunities to meet their personal needs on an instantaneous, world-wide basis, whether in urban areas or remote regions of the world. The LEO applicants believe their systems can meet these needs on a more flexible and economically viable basis, recognizing, of course, that LEOs will not supplant the services of existing geostationary satellite communications systems, such as INTELSAT, INMARSAT, and EUTELSAT, as well as the various domestic satellite systems. Instead, they will supplement the existing systems in the case of those users whose needs demand them, and who are willing to pay for the more flexible mobile service capabilities that LEOs intend to furnish.

However, as with new space technologies and applications, the establishment and operation of such systems present new and challenging legal and regulatory issues, both on the international plane and at the

municipal level. For example, to name but a few developments; (1) frequency allocation issues were the subject of the 1992 World Administrative Radio Conference of the ITU, and resulted in the allocation of necessary frequency bands for the LEO services as well as frequency coordination procedures specific to LEOs; (2) in the United States where there are ten (10) applicants before the Federal Communications Commission for licenses to establish such systems, the applicants are presently working with the FCC to establish a domestic regulatory framework in what is referred to as a negotiated rule-making process. In Europe, the Commission of the European Community and the CEPT and other organizations are addressing licensing and related issues. In addition, there are a host of legal issues relating to the interconnection and use with foreign terrestrial telecommunications systems.

And now to our speakers: first is Mr. Robert Frieden, an Associate Professor in the Pennsylvania State University School of Communications, a former United States Government communications official in both the Department of Commerce where he was in charge of international telecommunications policy, and at the Federal Communications Commission. Professor Frieden has written extensively in the field of satellite communications and is a consultant to members of the United States' LEO industry. He will speak as to several LEO issues from the perspective of the United States industry.

Our second speaker will be Dr. Marco Ferrazzani, a lawyer handling communications issues with the European Space Agency, and currently representing the Agency as an observer to this Session of the Legal SubCommittee. He will speak as to several issues regarding LEOs from the perspective of a European lawyer currently aware and involved as to satellite communications developments within Europe.

Our third speaker was scheduled to have been Mr. Sa'id Mosteshar, the Chairman of Committee Z, Outer Space, of the International Bar Association's Section on Business Law. However, he regrets having had to cancel at the last moment because of business demands, but sends his greetings. He has reviewed his comments with Mr. Richard Mizrack, a former Chairman of Committee Z, and he will present Mr. Mosteshar's paper, copies of which are available at the podium, and make some further comments of his own. Mr. Mizrack is a partner in the New York Office of Ober, Kaler, Grimes, and Shriver where he heads the Firm's international practice group and engages extensively in transnational legal transactions. He previously had international satellite communications experience with the U.S. Communications Satellite Corporation and participated as a member of the United States delegation for the negotiations of the definitive arrangements of INTELSAT.

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