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Foreign Commercial Satellite Services Bill Advances on Capitol Hill

June 12, 2013 | Satellite Today | Steve Schuster



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U.S. Capitol.
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[Satellite TODAY 06-12-13] The **U.S. House Armed Services Committee** is addressing concerns on foreign commercial satellite services, under a measure recently passing through committee – H.R. 1960, the National Defense Authorization Bill for Fiscal Year 2014, which could prevent a number of satellite providers from contracting with the U.S. Government.

"Legally speaking, these changes have the potential to impact future contracts," said **University of Mississippi** School of Law School Professor Joanne Gabrynowicz who serves as director of the **National Center for Remote Sensing, Air and Space Law** and Research in Oxford, Miss.

In May, the **Strategic Forces Congressional Subcommittee** released their portion of the National Defense Authorization Act, specifying DoD's budget and expenditures. Section 16 of H.R. 1960, titled Foreign Commercial Satellite Services, contains provisions, which, if passed, would amend Chapter 135, Title 10 of the United States Code and prohibit the U.S. Secretary of Defense from entering into a contract for satellite services with a foreign entity under certain circumstances. The prohibited foreign entities, according to the language of both the proposed bill and the National Defense Authorization Act for Fiscal Year 2013, include the People's Republic of China, North Korea, and "any country that is a state sponsor of terrorism."

Now before the floor of U.S. Congress, H.R.1960 addresses issues ranging from assaults in the military and armed services wage increases, to regulation of the satellite industry. The newly proposed section pertaining to satellites was introduced in the wake of the Pentagon's use of a commercial satellite from China to support U.S. military command communications in Africa.

"We have to remain vigilant in protecting our communications data and in understanding any vulnerability in relying on any outside party. I am concerned about this, and I am equally concerned about the long-term national security implications of failing to cultivate the domestic capacity to respond to our defense needs," said Congressman John Garamendi, D-Fla., a member of the **House Armed Services Committee's** Strategic Forces Subcommittee in a statement to *SatelliteTODAY.com*. "In addition, I believe our Intelligence, Surveillance, and Reconnaissance (ISR) assets need to be better integrated to meet our national security goals."

Bloomberg news reported back in April that the use of China's Apstar 7 satellite was selected because it provided unique bandwidth and geographic requirements for wider geographic coverage. But U.S. lawmakers were not impressed with that argument, stating that any risks outweigh the benefits. In fact just last month, Congressman Howard McKeon, R-Calif., chair of the House Armed Services Committee, released a draft of FY2014 National Defense Authorization Act, demanding answers from the Secretary of Defense as to why DoD partnered with foreign commercial satellite service providers facing U.S. sanctions, including China, according to Claude Chafin with the House Armed Services Committee.

As the bill progresses, Congress remains optimistic the measure will pass. Chairman of the House Rules Committee Pete Sessions, R-Texas, said June 11 during a hearing on the bill that "H.R. 1960 has broad bipartisan support and I look forward to its passage on the floor." But industry experts and satellite service providers have concerns. Count Jay Gullish, director of space and telecommunications with **Futron Corporation**, a space and satellite consulting firm, among one of the bill's critics.

"It's easy to understand the DoD's concern about Chinese-owned capacity. A satellite

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operator could be pressured to drop a lease during a critical engagement," Gullish said. "We have parties on the other side who know exactly how to scratch our wounds."

But Gullish said the bill in its current form is too broad and raises a number of questions if countries like China are precluded from contracting with the U.S.

"There are some questions that need real clarification. Will Hong Kong be excluded too? How do you treat Chinese investment in other companies? Will there be a threshold?" he asked, noting that in the wake of **Intelsat's** IPO, the Chinese government could likely purchase shares.

Although even if the Chinese government acquired Intelsat shares, it would be a gradual process, said Dianne VanBeber who serves as Intelsat's vice president of investor relations and corporate marketing communications.

"It's not like overnight China could own half of us," VanBeber said noting that the company would first need to vet a FCC ownership process and go through several other steps. But she acknowledges the overall concern. "It's certainly an issue that companies have to be aware of," she said.

Intelsat has concerns of its own. VanBeber said in order to have optimal capacity, coverage, connectivity and affordability, communication with DoD needs improvement.

"The DoD/industry dialogue has been insufficient, particularly in comparison to the level of planning we conduct with our other large customers such as large media programmers or telecommunications companies," she added.

DoD could not be reached for comment prior to publication.

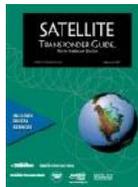
While **Eutelsat** declined to comment, Gullish also noted many Asian providers are either based in China or Hong Kong and have varying degrees of financial investment from China. Gullish said he and several satellite service providers would be more likely to support the measure if it offered additional clarity. "We need to be very clear about how we balance our needs in Asia and, in turn, not set up a system that shoots ourselves in the foot and allows gaming of U.S. regulations. We need to have very thoughtful rules and regulations, I think that should be a discussion."

And in that light, lawmakers bill will continue to discuss the bill as it is presently on the floor of the House for full consideration this week, after passing through committee last week.

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