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**Common Market for Eastern
and Southern Africa**

Case File No. CCC/MER/07/25/2024

**Decision¹ of the 110th Meeting of the Committee Responsible
for Initial Determinations Regarding the Proposed
Acquisition of Intelsat Holdings S.A.R.L. by SES S.A.**

ECONOMIC SECTOR: Telecommunications



20 October 2024

¹ In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the “**COMESA Treaty**”);

Having regard to the COMESA Competition Regulations of 2004 (the “**Regulations**”), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the “**Rules**”);

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States’ economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 12 July 2024, the COMESA Competition Commission (the “**Commission**”) received a notification for approval of a merger involving SES S.A. (“**SES**” or “**the acquiring firm**”) and Intelsat Holdings S.à.r.l. (“**Intelsat**” or “**the target firm**”), pursuant to Article 24(1) of the Regulations.
2. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the transaction between the parties would or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.
3. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.



The Parties

SES (the “acquiring firm”)

4. SES is a public company incorporated under the laws of Luxembourg and traded on the Luxembourg Stock Exchange and Euronext Paris Exchange under the symbol SESG.
5. SES owns and operates both geostationary Earth orbit (“**GEO**”) and medium Earth orbit (“**MEO**”) satellites that together provide coverage of 99% of the world’s population. SES operates its fleet of GEO satellites in the C-, Ku-, Ka- and/or X-band frequencies. SES also operates a constellation of 26 Ka-band satellites in MEO.
6. SES operates a global ground network of approximately 30 SES owned or partner teleports, connected by a comprehensive fibre-based terrestrial network with numerous points of presence.
7. In the Common Market, SES supplies satellite capacity and connectivity services to customers in the Fixed Data and Media segments, which activities in the Common Market fall within the Standard Industrial Classification Code of ‘4813: Telephone Communications, except Radiotelephone’.
8. The parties have submitted that SES directly and indirectly controls subsidiaries that are incorporated/registered outside of the Common Market that generated turnover in the Common Market in the year 2023 as per Table 1 below.

Table 1: Activities of SES in the Common Market

Undertaking	Member State	Activity
New Skies Satellites, B.V.	DRC	Fixed Data (Enterprise and cloud services) and Media (Sports and events related services)
	Eritrea	Media (Direct to Home “DTH” broadcasting services)
	Ethiopia	Media (DTH and contribution services)
	Kenya	Fixed Data (Enterprise and cloud services)
	Malawi	Media (DTH broadcasting and contribution services)
	Mauritius	Media (DTH broadcasting services)
	Uganda	Media (DTH broadcasting services)
MX1 Ltd	Ethiopia	Media (DTH broadcasting services)
	Zimbabwe	Media (Playout solution with distribution via satellite)



Intelsat

9. Intelsat is a company incorporated under the laws of Luxembourg. Intelsat operates a fleet of 56 GEO satellites utilising C-, Ku- and Ka- bands. Intelsat also provides low-Earth orbit (“LEO”) services via leased capacity from OneWeb. Intelsat’s ground network includes over 70 fibre-connected, owned and partner teleports worldwide with numerous points of presence.
10. In the Common Market, Intelsat provides services to a mix of customers in the Media, Networks and Mobility segments, under the following Standard Industrial Classification Code ‘4813: Telephone Communications, except Radiotelephone’.
11. The parties submitted that Intelsat directly and indirectly controls the following subsidiaries that are incorporated/registered outside of the Common Market that generated turnover in the Common Market in the year 2023 as per Table 2 below.

Table 2 – Activities of Intelsat in the Common Market

Undertaking	Member State	Activity
Intelsat Global Sales & Marketing Ltd	DRC	Networks (AgileCore/Platform as a Service (PaaS) Dialog, AgileCore/PaaS Evolution)
	Uganda	<ul style="list-style-type: none"> • Mobility (Flex/Move) • Networks (AgileCore/PaaS Dialog, AgileCore/UX)
Intelsat Ventures S.à.r.l.	DRC	<ul style="list-style-type: none"> • Networks (Cellular Backhaul (“CBH”), Capacity, Managed Trunking Services, AgileCore/P2P4, AgileCore/PaaS Dialog) • Media (Media Service managed/space)
	Djibouti	Media (Occasional use services)
	Egypt	Networks (Capacity)
	Eritrea	Networks (Capacity, Channel service)
	Ethiopia	Networks – Capacity
	Kenya	<ul style="list-style-type: none"> • Networks (Capacity) • Media (Media services)
	Libya	Networks (Capacity, Flex/Enterprise virtual network operator)
	Madagascar	Networks – Capacity
	Malawi	Media – Media Services
	Mauritius	<ul style="list-style-type: none"> • Media (Media Services) • Networks (Capacity, Flex/Enterprise VNO, Managed Trunking Service)



	Rwanda	Networks (Capacity, Managed Trunking Service, AgileCore/PaaS Dialog)
	Sudan	Networks (Capacity)
	Uganda	Media (Media Services)
	Zambia	Networks (Capacity)

Jurisdiction of the Commission

12. Article 24(1) of the Regulations requires ‘notifiable mergers’ to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the “**Merger Notification Thresholds Rules**”) provides that:

“Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:

- a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and*
- b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds USD 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State”.*

13. The undertakings concerned have operations in two or more Member States. The undertakings concerned derived a turnover of more than the threshold of USD 50 million in the Common Market and they each derived a turnover of more than USD 10 million in the Common Market. In addition, the parties do not hold more than two-thirds of their respective aggregate turnover or asset value in one and the same Member State. The Commission was thus satisfied that the transaction constitutes a notifiable transaction within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

14. The transaction concerns the acquisition of 100% shareholding of Intelsat by SES, conferring sole control of Intelsat upon SES.



Competition Assessment

Consideration of the Relevant Markets

Relevant Product Market

15. Paragraph 7 of the Commission's Guidelines on Market Definition states that a ***“relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use”***.
16. SES provides satellite capacity and connectivity services to customers in the Fixed Data and Media segments in the Common Market. Further, Intelsat provides satellite capacity services to a mix of customers in the Media, Networks and Mobility segments in the Common Market.
17. The CID noted that there is an overlap between the satellite capacity activities and connectivity services to customers of the parties in relation to fixed data and media in the Common Market.

Satellite capacity and connectivity

18. Satellite connectivity is provided by satellites orbiting at various distances from Earth. These satellites can be categorized based on their relative positions to the Earth's surface, that is, whether they stay fixed in one spot or move across the sky. The parties submitted that from a customer's viewpoint, the capacity of these satellites is interchangeable, regardless of their orbit.
19. The parties submitted that the most prevalent orbits for satellite systems providing services in the Common Market are as follows:
 - a) GEOs, which are positioned in an equatorial orbit of approximately 36,000 kilometres above the Earth's surface. Each satellite travels at the same rotational rate as the Earth so that the satellite is able to provide continuous service over a given territory. The merging parties own and operate GEO satellites.
 - b) MEOs, which may be positioned approximately 2,000 - 36,000 kilometres above the Earth's surface. MEOs' lower orbit compared to GEOs means that each satellite does not provide a service to a constant land mass on Earth but does provide lower-latency connectivity (i.e., there is less delay in the signal travelling between the satellite and user terminal). SES operates a constellation of MEO satellites in an equatorial orbit at an altitude of approximately 8,000 kilometres while Intelsat does not operate any MEO.



- c) Low-Earth orbit satellites (“LEOs”) which are positioned approximately 500 - 2,000 kilometres above the Earth’s surface and orbit more quickly around the Earth than MEOs. Since LEOs orbit closer to the Earth’s surface than MEOs and GEOs, latency is lower. Moreover, because LEOs are closer to Earth than GEO or MEO, a greater number of satellites are required to provide global services. Neither SES nor Intelsat operate a LEO communications satellite system.
20. The parties further submitted that MEO and LEO satellites fall within a broader category of Non-Geostationary Satellite Orbit (NGSO) satellite systems.
21. Communication through satellite happens through two main parts, namely the ground part on one hand and the space part on the other hand. The ground part involves fixed or mobile transmission, reception, and ancillary equipment. The space part is the satellite itself which is in the space. Communication through satellite thus involves the transmission of a signal from a ground part to a satellite. Upon receipt of the signal, the satellite amplifies the signal and retransmits it back to ground. Upon receipt of the retransmitted signal from the satellite, the ground station reamplifies same. Satellite receivers on the ground include Satellite Direct-to-Home (DTH) satellite equipment, mobile reception equipment in aircraft, satellite telephones, and satellite receiver for internet.
22. Satellite connectivity is hence used to distribute TV signals and as an input for the provision of telecommunication services, including telephony and fixed and mobile internet services. Communication through satellites happens when the satellites use the ground equipment, which are transponders and antennas, to transmit signals designed for a particular frequency, known as frequency bands.
23. The CID noted that the frequency bands used by SES and/or Intelsat in the Common Market include the following:
- a) C-band frequencies (4-8 GHz) which are used to provide satellite connectivity over wide geographic areas. Often used for media distribution, C-band is also used for two-way communications such as 3G/4G/5G backhaul, Internet and cloud access, and enterprise connectivity. Both SES and Intelsat offer GEO satellite connectivity in COMESA countries using the C-band frequencies.
 - b) Ku-band frequencies (12-15 GHz) which are used to provide satellite connectivity over large and small geographic areas. The propagation characteristics of Ku-band frequencies enable high levels of frequency re-use making them suitable for High Throughput Satellite (HTS)² designs. Ku-band

² The parties submitted that Satellite operators are increasingly shifting away from widebeam satellites towards HTS. Widebeam satellites deploy a single beam across a wide geographic area, whereas HTS satellites deploy a large number of narrow spotbeams that re-use spectrum in a given geographic area. This enables more total gigabytes per



can be used for media distribution, such as DTH satellite television, as well as for 3G/4G/5G backhaul and data applications, Internet and cloud access, enterprise connectivity, and aero/maritime mobility. Both SES and Intelsat offer GEO satellite connectivity in certain COMESA Member States using the Ku-band frequencies.

- c) Ka-band frequencies (26-40 GHz) which are used mainly in HTS systems for data applications such as media-streaming applications, 3G/4G/5G backhaul, Internet and cloud access, enterprise connectivity, and aero/maritime mobility, due to the wide bandwidths available and high levels of frequency re-use possible in this frequency range. SES offers MEO satellite connectivity in certain COMESA Member States using the Ka-band frequencies.

Provision of satellite capacity

- 24. Satellite operators own and operate satellite fleets and/or constellations and they provide capacity at the wholesale level to downstream customers. Satellite operators put together packages of connectivity solutions comprising the use of satellite bandwidth and equipment (including antennas, earth stations and other equipment) and auxiliary services (such as customer support) to provide capacity to their customers.
- 25. Such customers are communications service providers or private network operators which require satellite bandwidth as an input to provide their services or to conduct their business activities. Customers of satellite owners include DTH service providers, media content distributors, telecommunications companies, mobile network operators and private networks.
- 26. Satellite capacity can be used for one-way or two-way communications. One-way satellite communications are employed most commonly by media customers seeking to distribute content (e.g., television or radio programming) over a wide area, whether for DTH reception or reception at a terrestrial broadcast station or cable system for re-transmission. On the other hand, two-way satellite communication services allow end-to-end exchanges of voice and data among two or more terminals. This is the most common mode of communication for data applications, including 3G/4G/5G backhaul, Internet and cloud access, enterprise connectivity, and aero/maritime mobility.
- 27. To distribute TV signals, the content is first sent to an uplink antenna, which is then transmitted to a satellite. The satellite, in turn, beams the signal down to the receiving dishes of customers. These customers can be either TV broadcasters or DTH distributors. The satellite antennas that emit DTH signals are designed to

second (Gbps) to be deployed on a single HTS satellite. Widebeam satellites are used for the distribution of linear media content as well as fixed data services. HTS satellites are used predominantly for data applications like 3G/4G/5G backhaul, Internet and cloud access, enterprise connectivity, and aero/maritime mobility.



optimize coverage for specific geographical regions, and this design is dependent on the frequency used. Various satellite frequency bands are employed for different purposes, including the C-band, X-band, Ku-band, Ka-band, Q-band, V-band, and W-band.

28. The CID noted that media signal can be provided through satellite (including the use of antenna) or through streaming services. Further, viewers do opt for internet streaming services and online platform, such as Netflix and Amazon Prime, to watch TV content. The CID therefore considered that both the demand side and the supply side, provision of media signal through satellites and streaming services are likely to constitute distinct services in view of the logistics and equipment involved, thus making them distinct markets.
29. The CID observes that internet can be provided through land-based fiber, cable, or mobile broadband connections, which can be installed underground or via deep-sea cables or through satellite. Satellite internet, on the other hand, refers to internet service provided by a satellite in orbit. Satellite internet is used to provide connectivity across the globe from the space, by sending information wirelessly through a network of satellites in space.
30. Internet is provided via satellite through the following steps:
 - a) Step 1: The internet signal originates from an internet service provider (“ISP”) and is sent to a ground station, also known as an earth station.
 - b) Step 2: The ground station transmits the signal to a satellite in space. These satellites can be in various orbits, such as GEO, MEO or low Earth orbit (LEO).
 - c) Step 3: The satellite receives the signal and relays it back to ground, acting as a relay station to bounce the signal to a specific area.
 - d) Step 4: The signal is received by a satellite dish at the end user’s location. This dish connects to a modem, which converts the signal into internet service for use by devices in the home or office.
 - e) Step 5: Different frequency bands, like Ku-band and Ka-band, are used to transmit these signals, optimizing them for various applications and geographical areas.
31. Therefore, on both the demand and supply side, the provision of internet via satellite and via land-based fiber, cable, or mobile broadband connections are likely to constitute distinct markets, in view of the logistics and equipment involved.
32. As noted above, satellite capacity can be used for the provision of media content and fixed data. The CID considered that the market for the provision of satellite capacity and connectivity services should not be segmented into the specific end use of the service, that is either media signal or fixed data because on the supply



side, one broad service of satellite capacity and connectivity is provided and the end use of the same does not affect the supply side.

33. In view of the overlap between the activities of the merging parties, the CID identified the relevant product market as the **market for the supply of satellite capacity and connectivity services**.

Relevant Geographic Market

34. Paragraph 8 of the Market Definition defines the relevant geographic market as follows:

“The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous, and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas”.

35. The parties have submitted that the geographic market for the supply of satellite capacity and connectivity services is global or at least the Common Market. The parties have further submitted that given that no competition concerns arise regardless of the market definition ultimately adopted, the precise scope of the relevant product and geographic markets can be left open.
36. The CID considered that satellites are likely to have a built-in flexibility which will allow such satellites to extend their reach to neighbouring countries which may not be part of the Common Market. Therefore, to define the geographic reach of satellites, it is relevant to consider their technical reach from its orbital position and the number of ground stations and dishes connected to that orbital position³. The positioning of the satellite is important to determine the strength of the signal. For this reason, a satellite covering for instance a region in the Pacific or Europe does not have a footprint over the Common Market. The CID therefore considered that the positioning of the satellite is relevant in determining the geographic scope of the provision of satellite capacity and connectivity services.
37. The CID observed that SES satellites cover sub-Saharan Africa for broadcasting, and the whole of Africa for telecommunication services.
38. Based on the above, the CID held that the geographic market could extend as far as Africa, but for purpose of this transaction should at least be the Common Market.

³ The Commission notes that in Case M.9152 - BC Partners / United Group, the European Commission's market investigation on the geographic market aspect confirmed that “it is relevant to look at satellites' combined footprint from an orbital position (technical reach) and the location of the customer base (number of dishes pointed towards an orbital position)”.



Conclusion of Relevant Market Definition

39. For the purposes of assessing the proposed transaction, and without prejudice to the CID's approach in future similar cases, the CID identified the relevant market as **the supply of satellite capacity and connectivity services in the Common Market.**

Market Shares and Concentration

40. The CID observed that there were no market shares available specific for the Common Market. However, the CID observed the parties' submissions on market shares relating to Sub-Saharan Africa ("SSA") for provision of satellite capacity and connectivity services⁴ based on the amount of capacity contracted by various satellite operators to customers in SSA.
41. In view of this, the CID considered that the SSA market shares can be used as a proxy for the market shares in the Common Market as the vast majority of Member States fall within this geographic scope. The CID was of the view that this approach was not unusual especially that while market shares are an important element in the determination of competition cases, they are not in themselves conclusive as other factors have to be taken into consideration.
42. The CID noted the estimated market shares of the merging parties and their competitors for contracted satellite capacity in SSA region as per Table 3 below:

Table 3: Estimated Market Shares for contracted satellite capacity in SSA region⁵

Provider	Market Shares (%)
Starlink	[20 – 30]
Avanti Communications	[10 – 20]
Intelsat	[10 – 20]
Eutelsat	[10 – 20]
SES	[5 – 10]
ArabSat	[5 – 10]
YahSat	[5 – 10]
Others	[10 – 20]

43. The CID observed that the combined market shares of the merging parties in the SSA region will amount to [20 – 30] %.
44. The CID further noted from the above table that the most recent entrant, Starlink, has been able to gain a market share of [20 – 30] % and is also the market leader.

⁴ Parties submitted market shares information as gathered by Analysys Mason (formerly Northern Sky Research), a satellite industry analyst, which tracks the amount of satellite capacity leased by various satellite operators to customers in the Sub-Sahara Africa region in 2022- 2023. Confidential information claimed by merging parties.

⁵ Confidential information claimed by merging parties.



The CID considered that this is suggestive of the relevant market being very dynamic and contestable.

45. The CID considered that despite the market share accretion, the nature of the market will keep it competitive and the market will still have numerous players which will continue to provide competition to the merged entity.
46. The CID noted the barriers to entry present in the relevant market but considered that such barriers are not insurmountable. This is evidenced by the constant changes in the market dynamics. The CID noted that market entrants such as Starlink have capacity to launch satellites. Notwithstanding, the CID noted that the barriers to entry may not be prohibitive as is evidenced by recent entrants such as Starlink and OneWeb. The CID also noted that the transaction will make the merged entity the second largest provider of satellite capacity in the SSA region and by proxy in the Common Market with a market share of [20 – 30] %.
47. The CID further noted the submissions of the Mauritian Competition Commission (“CC”) and the concerns raised by two mobile network operators in Mauritius that the transaction is likely to raise competition concerns in the Common Market. The CID considered the submissions from the CC and the mobile network operators in Mauritius and observed that while indeed the transaction results in horizontal overlap in the relevant market, it is unlikely to confer dominance upon the merged enterprise and hence unlikely to result in unilateral effects. This is because the merged entity will still be constrained by its competitors in the provision of satellite connectivity services.
48. The CID noted that the following providers are capable of offering satellite connectivity services in the Common Market:
 - a) ABS Asia Broadcasting Satellite;
 - b) APT Satellite;
 - c) ArabSat;
 - d) Azercosmos;
 - e) Belintersat;
 - f) China Satcom;
 - g) Eutelsat Group (Eutelsat/OneWeb);
 - h) Gazprom Space Systems;
 - i) Inmarsat/Viasat;
 - j) ISRO Indian Space Research Organisation;



- k) Nigcomsat;
 - l) Rascomstar;
 - m) RSCC;
 - n) Sky Perfect Jsat;
 - o) SpaceCom;
 - p) SpaceX (Starlink);
 - q) Thaicom;
 - r) Turksat; and
 - s) XTAR.
49. The CID considered that this potential competition is likely to provide competitive discipline to the merged entity and this diminishes the likelihood of unilateral effects post the transaction. The CID further noted from the submissions of CC that the provision of satellite connectivity in Mauritius does not require any license from the regulator. Therefore, CID considered that this makes the competition constraint credible.
50. The CID considered that service degradation is unlikely because the relevant market is characterized by technological dynamism and the market players have to constantly innovate and provide better service offerings to their customers.
51. Given that the relevant market is characterised by the presence of a number of rivals, the CID considered that the acquiring group will still be constrained by the other players in the relevant market. The transaction is therefore unlikely to result in the creation or strengthening of a dominant position which could lead to unilateral effects.
52. The CID further noted that the market is highly contestable and that entry is probable. This is likely to eliminate the risk of competitive harm arising from this transaction.

Consideration of Third-Party Views

53. In arriving at its determination, the CID also considered submissions from the national competition authorities of Egypt, Kenya, Libya, Madagascar, Zambia and Zimbabwe which did not raise any competition concerns and recommended the unconditional approval of the merger.
54. The CID noted the submission by the CC that the transaction may may result in competition issues at the level of the Common Market. The CC submitted that it had gathered the views of two Mobile Network Operators in [REDACTED] namely



[REDACTED] expressed concerns that may arise following the transaction in terms of market dominance of the merged entities in the world, higher prices, decreased bargaining power for customers, potential for service degradation and dependence on a single (merged) supplier. [REDACTED] also expressed concern that this transaction (i) is likely to strengthen the service offerings of the merged entity, (ii) the merged entity is expected to hold approximately 30% of the wide beam leased capacity market and would be one of the largest Satcom players in the market (with a combined fleet of some 100 GEO and 26 MEO satellites), and (iii) while this merger might not directly impact the current agreements between [REDACTED] and Intelsat at this point in time, it could influence pricing and availability in the future, given the significant market control that the SES/Intelsat merger would hold.

55. The CID also noted third party view of [REDACTED] who submitted the likely competition concerns which may result from the transaction.
56. Whilst the CID observed the submission from CC, and the two mobile network operators in [REDACTED] it considered that the transaction will not result in a substantial lessening or prevention of competition in the relevant market. This is because the transaction will not confer dominance upon the merged entity which will still be constrained by existing and potential competition.

Determination

57. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor will it be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.
58. The CID, therefore, approved the transaction.
59. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 20th day of October 2024

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma

Commissioner Vipin Naugah

