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30 November 2007

**O2 response to the Ofcom Consultation
on Mobile Communications onboard Aircraft**

Dear Richard,

O2 (UK) Limited (O2) is pleased to be able to respond to Ofcom's Consultation on Mobile Communications onboard Aircraft, which builds on Ofcom's 2006 discussion paper. We continue to support Ofcom's approach, which is to work towards an internationally agreed solution to be implemented on a common basis by the regulatory authorities in many countries. O2 notes once again, however, that there remain some fundamental issues that are outside of Ofcom's control which, in our view, should be resolved before the specific proposals being discussed in the Radio Spectrum Committee (RSC) and Communications Committee (COCOM) are finally adopted. As Ofcom itself notes [Executive Summary, paragraph 2], "**Aircraft safety is of primary importance, and no services could be contemplated unless safety was assured.**"

Although we note that the European Aviation Safety Agency (EASA) has issued the first airworthiness certification in June 2007, it appears that there has not been any assurance from the Civil Aviation Authority (CAA) at this time, and yet Ofcom is clearly contemplating, along with other European communications regulators and the European Commission, the imminent introduction of services. O2 believes that there remains a possibility that some national civil aviation regulatory authorities will not authorise these services, and we therefore have some concerns that the approval of onboard operational procedures in some countries (which may not necessarily be within the European Union) implies, as Ofcom states [§1.22], that some airlines "may be operating MCA in UK airspace applying different operating procedures on board from those in use on UK aircraft" under a mutual recognition approach.

O2 therefore suggests that the European RSC spectrum Decision and COCOM authorisation Recommendation are not finally adopted until an appropriate number of countries' aviation authorities have approved onboard operational procedures and we have, as a result, sufficient evidence that the mutual recognition approach to this issue is a practical one.

Interference issues

O2 agrees with Ofcom [§2.18] that ensuring both passengers' handsets and the MCA systems are switched off below the absolute minimum height (currently intended to be 3000m above

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ground level) is key to minimising harmful interference, and we note that the onboard operational procedures are therefore central to achieving this. As we noted in our comments on the 2006 discussion paper, aircraft that fly in UK airspace are not all registered in EU countries, and this suggests to O2 that additional work may be required to ensure that this essential feature of onboard systems is implemented in all aircraft that carry such systems. The (relatively) limited number of administrations in the EU suggests to O2 that similar operational procedures will need to be adopted by the wider body of international aviation regulatory authorities to guarantee that the minimum height of operation (and other relevant technical and operational requirements) will be observed by all aircraft equipped with such systems. Once again O2 suggests, therefore, that the RSC Decision and COCOM Recommendation are not finally adopted until an appropriate number of countries' aviation authorities have approved onboard operational procedures and we have sufficient evidence that this key interference control measure is a practical one.

With regard to the resolution of interference, we are pleased to note that Ofcom has reversed the position it had proposed in its earlier discussion paper. Previously, Ofcom had suggested [2006 Discussion Paper, §3.11] that the resolution of "interference caused to other radio systems at home or abroad" will be the responsibility of the administration in which the aircraft is registered. Now, Ofcom confirms [MCA Consultation, §2.19] that "If it is proven that an individual system or a cumulative effect causes harmful interference Ofcom will take the necessary action."

Licensing issues

As argued in our comments on the 2006 discussion paper, we support Ofcom's proposals not to exempt MCA systems from licensing and to issue licences to the aircraft operator via a Notice of Variation to their existing licence, but O2 questions the proposal [§3.20] that there will be no additional charge for using this spectrum. In our view, Ofcom seem to be taking an inconsistent approach to the risk of harmful interference, on the one hand saying that a precautionary approach is needed (hence the proposal for installations to be licensed), and then implying that no additional fees should arise because there is no spectrum management justification. Logically, if there is more work for Ofcom to do as a result of the introduction of MCA systems, where is the funding for that coming from?

General Conditions of Entitlement and other issues

O2 notes that COCOM has confirmed in the draft Recommendation that services provided by operators of MCA systems are Electronic Communications Services (ECS) and therefore fall within the scope of the Authorisation Directive. We also note that Ofcom has recommended that operators of such systems seek their own advice on the applicability of the General Conditions of Entitlement (GCs).

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Numbering

O2 supports the proposal that operators of MCA systems will need to apply for an international Mobile Country Code (MCC) and Mobile Network Code (MNC) for registration and call direction to take place, and that national codes will not be provided.

Roaming

Finally, it is still not clear to O2 if the European Commission's roaming regulation will apply to such systems and consequently, as we noted in our response to the 2006 Discussion Paper, how prices might be benchmarked, whether this will apply to UK domestic flights as well as to international services, etc. O2 notes that, for EU citizens, their home network will be a terrestrial public mobile telephone network, and we look forward to Ofcom's further comments on this issue in their response Statement.

We trust that you will take these concerns and comments into account when publishing your response Statement. If you would like to discuss any of these issues further with me or any of my colleagues, please do not hesitate to contact me.

Yours sincerely,



**Simon Wilson
Spectrum Policy Manager
O2 Holdings Ltd**