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Laurence Green
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11B/20C
Wyndham House
189 Marsh Wall
London
E14 9SX

**RE: The Independent Spectrum Management Recommendations
Further comments on satellite issues**

Dear Mr Green,

I am pleased to enclose herewith a short submission of views from the satellite industry on the recent publication of the Independent Spectrum Management Review, which was prepared by Prof. Martin Cave.

The Satellite Action Plan Regulatory Group (SAP REG) submitted comments dated 30 November 2001 in earlier stages of the proceeding. We welcome the UK Government's decision to review radio spectrum management issues and believe there is much merit to a number of recommendations made in the review.

We hope that the Government will take into consideration the concerns we outline in the attached paper and we look forward to further discussion of these issues in the context of the newly published Draft Communications Bill.

Remaining at your disposal to provide any more information or advice,

Sincerely,

Gerald E. Oberst, Jr.
Chairman, SAP REG
Enc.

Input of the Satellite Action Plan Regulatory Group (SAP REG) to the publication of UK Spectrum Management Review (“the Cave Review”)

1. Introduction

1.1 The European Satellite Action Plan Regulatory Group (SAP REG) was formed by the satellite industry under a mandate from the European Commission to deal specifically with regulatory provisions affecting satellite communication services in the Community. SAP REG members include satellite companies headquartered in the UK, or with significant resources located in the UK.

1.2 This response has been formulated by SAP REG, and is supported by its wide-ranging membership and by the Global VSAT Forum (GVF). The GVF is an association of key companies involved in the business of delivering advanced digital fixed satellite systems and services to consumers, and commercial and government enterprises worldwide.

1.3 SAP REG responded on behalf of the satellite community to Professor Cave’s initial consultation on spectrum management in the UK. Our detailed comments followed from an initial meeting held between the Cave Review team and SES ASTRA, a member of SAP REG and also a leading provider of satellite services to UK industry. At that meeting, serious concerns were raised about the direction of the Cave Review as it related to our industry. SAP REG members believed that many of the Cave team’s outline recommendations did not take sufficient account of the trans-national nature of satellite and the unique pre-existing regulatory environment under which we operate. We were very pleased therefore to see in the Report published in March 2002, that the review team recognised the vital importance of satellite technology, and the continuing validity of international agreements governing the rational use of spectrum. This recognition is crucial to the long-term stability, economic viability and global competitiveness of our industry.

1.4 This recognition in the Cave Report reinforces the view that, unless there is a clear and consistent long-term trans-national approach to regulation, the business case for satellite services becomes increasingly less attractive to investors. There are enormous costs and long lead-times associated with designing, planning, launching, operating and maintaining satellite services. Our customers demand stability and predictability, whether they provide broadcasting, telecommunications, broadband technology, entertainment, business-to-business or other services.

1.5 In the UK, satellite infrastructure is an increasingly important element in the delivery of Government policy objectives. For example, we offer universal coverage for digital television broadcasting, reaching near 100% of the population, wherever they live. (The recent Fourth Report of the Culture, Media and Sport Committee noted on 24 April 2002, that the UK is a “world leader in the take up of digital television”, and that this is largely due to the digital satellite platform. Para. 47, 49.) We deliver, through service providers and innovative new business models, a range of broadband services with more expected to be offered as broadband take-up improves. We provide fast and reliable links between and within organisations and businesses. We can help to ensure widespread availability of “e-government” services and thereby contribute towards tackling social and technological exclusion. We form a vital link in

the chain for other communications industries, from news gathering to cable networks, from local Internet services to global teleconferencing.

1.6 In this submission, therefore, we seek to highlight those areas of the Cave Report on radio spectrum management where recommendations are strongly supported or where they continue to cause concern among the satellite community. We comment only on a small number of specifics, which have common resonance among us. We are happy to provide more detail as required and we would be happy to discuss, or expand upon, any aspect of this response as required.

2. The international regulatory framework

2.1 We very much welcome Professor Cave's recognition [paragraph 8.50, page 139] of the importance and validity of international agreements in achieving rational use of spectrum. National governments have long recognised the unique nature of satellite services. Signals from our spacecraft reach tens of countries simultaneously and a different regulatory framework in each would make the cost-effective and spectrum-efficient delivery of such services impossible.

2.2 The UK has long participated in its treaty level obligations through the International Telecommunications Union, which permits the Government to protect the interests of UK industry on the international level. Adoption of the EU electronic communications package of legislation also will require additional focus on trans-national regulatory requirements. The UK is also a substantial contributor and participant in the 44-nation CEPT structure, where the Electronic Communications Committee (ECC) seeks harmonization of spectrum requirements and regulatory provisions. The international structures through which satellite technology has developed in Europe are among the best in the world. We urge the UK Government to commit itself to continued high-level involvement in these structures, and to offer sustained support for the frameworks, and for the extension of these to a wider range of countries as satellite services continue to grow.

2.3 We further support the Report's finding (paragraph 8.50, page 139) that spectrum auctions would be unsuitable for satellite services. The difficulties of allocating bandwidth at national level are numerous. Spacecraft are designed and built to internationally agreed standards and, once configured, cannot be altered when in service. Subsequent changes to regulations or agreed bandwidth could not be acted upon by satellite operators without, in effect, shutting down the spacecraft and affecting services across a large number of countries at disproportionate cost and in likely violation of commercial and legal obligations.

2.4 Within our exclusively allocated bandwidths, satellite services remain possibly the most efficient users of spectrum currently known. We continuously re-use the same frequencies by transmitting to and from different orbital locations, delivering content to a large number of countries without the need for very large spectrum allocations. Furthermore, the satellite industry has constantly developed increasingly more sophisticated technical measures for ensuring efficient use of radio spectrum. For example, through frequency reuse and spot beams for satellite service delivery, we can precisely target our output, preventing possible interference whilst maximising the use of our allocated spectrum.

2.5 We are also the most efficient method for completing the digital TV technology chain – offering complementary services to cable and some terrestrial outputs, “filling-in” the gaps in broadcast availability and feeding cable head-ends for onward

transmission. Changes to the UK regime or the international framework may jeopardise our ability to provide this level of spectrum efficiency in the future.

3. New mechanisms for spectrum management in the UK

3.1 While the Cave Report offers much to be welcomed, there are however a number of areas which continue to cause concern among the satellite community. Perhaps the most significant group of these is the Review Team's emphasis on UK-specific market mechanisms for the allocation and management of spectrum. As we have already identified, the satellite industry is trans-national in nature. Single country spectrum regimes do not work in a multi-country industry where signal transmission cannot simply be "turned off" if the regulatory regime changes.

3.2 There is a delicate balance in the economics of satellite operation between international standards and national service provision. While the international framework delivers a minimum level of stability and predictability for operators, it is the level of additional national burdens, which attract or repel service providers. Extra levels of regulation in the UK will serve as a disincentive to service providers – whether in broadcasting, broadband internet, telephony or other communications – to offer their products in the UK either early in their business plans or, in some cases, at all.

3.3 For the UK to remain competitive internationally, therefore, it is important to aim for the policy objective of the lowest possible level of additional regulation beyond that necessary to maintain consistent international standards and to promote national political objectives. We believe that any market mechanisms introduced as a result of this Cave Report should meet both these criteria. In the case of satellite, we would suggest that the appropriate political objectives include:

- ensuring analogue-to-digital TV transmission switchover in good time;
- supporting the roll-out of broadband services across the whole of the UK;
- enabling local communities, businesses and government institutions to obtain greatest benefit from the digital revolution;
- promoting social and technological inclusion, especially in rural and outlying areas which are unlikely to enjoy the benefits of cable or DSL access or where broadband services may prove slow to be introduced using earthbound solutions alone;
- maintaining UK competitiveness internationally; and,
- continuing to encourage "light touch" regulation within a flexible framework for new and rapidly-evolving communications industries.

3.4 In light of this, we do not support the Cave Report recommendations as they relate to spectrum pricing arrangements, new forms of bureaucracy, including additional licensing hurdles, "administrative pricing" beyond nominal levels, and extra costs for consumers, content providers and operators. Key among these are recommendation 4.6, page 74, which would severely damage international satellite operations, and recommendation 8.5, page 141, which is an unnecessary and bureaucratic instrument.

3.5 As we have previously stated, satellite use of spectrum is possibly the most efficient currently available. It is wrong, therefore, to add burdens based on the assumption that spectrum is scarce when, in terms of satellite operation, it is not.

3.6 We are further concerned that any spectrum trading regime may add costs to spectrum which are not justified in terms of its usage. Where pricing is proposed in

order to reduce the possibility of interference, for example at recommendation 8.5, we do not believe that this applies to satellite. Because satellite resources are provided and coordinated on an international level, the additional transactional costs from spectrum trading would far outweigh any theoretical efficiencies gained in isolated instances.

3.7 Taken together, these recommendations would have the effect of adding an unnecessary and undesirable level of complication, bureaucracy, cost and burden on operators and/or satellite service providers. We further reject the notion expressed by the Cave Report in paragraph 8.57 that *“charging the opportunity cost of spectrum use does not lead to higher prices to consumers, or slow the deployment of new services”*.

3.8 The economics of satellite are too finely balanced to believe that higher input costs do not lead, eventually and inevitably, to higher charges for the end-user. This is particularly true in the case of newer technologies and services, where initial start-up and consumer acquisition costs are extremely large. Additional costs will stifle demand in the UK and damage short and longer-term competitiveness. This is equally true for uplinks from content providers or consumers and downlinks to customers and communications networks.

3.9 Finally, we are extremely concerned at the possible “virus effect” of single country regulations and/or charges for spectrum used by satellite. If one country brings in such new charges, others may follow. Since, once launched, we cannot avoid our spacecraft transmitting signals to countries introducing such charges, we would be faced with a simple tax on satellite services. Higher charges would not discourage inefficiency of spectrum use; instead they would discourage new services and put the UK, and possible Europe, into the minor leagues of new technologies.

3.10 The draft Communications Bill gives the new regulator (Ofcom) the power to introduce and regulate spectrum trading. Following from the Cave Report proposal that Ofcom should have the ability to grant frequency exclusivity to specified users or uses (paragraph 62, page 16) the draft Bill gives Ministers extensive powers of direction on the issue of spectrum management, including the power to direct Ofcom to grant frequency exclusivity.

3.11 Satellite services are already granted frequency exclusivity under international harmonisation agreements. We would urge that the power to grant exclusivity is utilised at the earliest opportunity in order to provide stability for the industry.

3.12 We are in the early stages of reviewing the new Communications Bill and its interaction with the independent spectrum review and will be responding in detail to the Government's consultation on this as well as to the forthcoming Radiocommunications Agency consultation document on the detailed implementation of spectrum trading.

The SAP REG is pleased to submit these further comments on the Cave Report. We believe that there are likely to be important issues that arise from this interaction, which may require a full review at a later stage of the recommendations of the spectrum review.

Satellite Action Plan Regulatory Group
10 May 2002