

OFCOM CONSULTATION: CHANGES TO THE PROCEDURES FOR MANAGEMENT OF SATELLITE FILINGS

CONSULTATION QUESTION	INMARSAT RESPONSE
QUESTION 1	
<p>Do you have any comments on our proposals to</p> <ul style="list-style-type: none"> - Include additional milestones to provide evidence that the satellite project is on-going and that its frequency assignments will be brought into use within the seven year regulatory period; - Clarify what evidence we will accept to demonstrate milestones have been completed; and - Set specific deadlines for milestones? 	<p>It is our understanding that the objective of updating the Procedures was not only to bring the Procedures up to date in terms of current RR filing provisions but also to streamline the process for the management of satellite filings and provide clarity and certainty for operators. However, the addition of several of the new milestones within Table 1 and paragraph 5.9 of Section 5 would appear to over-complicate a process which has been working well to date, and which we believe already adequately covers the required information needed by Ofcom in order to enable it to fulfil its obligations with respect to UK satellite filings through the ITU. Furthermore, we believe there would be a significant impact on both operators’ and Ofcom’s time in dealing with the new requirements listed in Table 1 and paragraph 5.9 of Section 5 but with no added clarity or certainty for either Ofcom or its operators.</p> <p>If Ofcom nevertheless proceeds with the implementation of the proposed changes, we have the following specific comments on the various deliverables within Table 1:</p> <p><u>Para. 5.5, Table 1, Stage 3.1 deliverables:</u> Ofcom are requesting provision of Stage 3.1 Deliverables before submission of a request for coordination. We believe this should read “before submission of a request for notification”.</p> <p>In terms of the “not later than” deadlines, it may not always be possible to meet these even if ITU deadlines can still be adhered to. We believe Ofcom should only consider cancelling a filing for non-compliance with its milestone deadlines if the ITU regulatory deadlines cannot be met.</p> <p>It seems reasonable to request information from an operator that ITU is also likely to request from an Administration with respect to a filing. However, some of Ofcom’s requirements go beyond what may be requested by ITU and we therefore believe the provision of this information should not be mandatory. In particular this relates to provision of CDR documentation which we believe should not form part of the deliverables. However, if the purpose of the provision of the CDR documentation is simply to confirm the frequency bands of the satellite, then it should be specifically stated that the</p>

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	<p>requirement is to provide “a copy of extracts from the CDR documentation of the satellite confirming the satellite frequency capability”.</p> <p><u>5.5, Table 1, Stage 3.1 deliverable, Milestone 5</u> In practice, authorisations are sometimes issued very late in the process and the deadline of “12 months before the launch of the satellite network” could be difficult to comply with. It would be preferable for this to either not be one of the deliverables or for the deadline to be amended to “Upon issue of the authorisation and prior to bringing into use”.</p> <p><u>5.5, Table 1, Stage 3.3 Deliverables</u> Some satellite contracts are subject to export control regulations and as such it may not always be possible to provide extracts or redacted copies covering information on the payload description or a manufacturer-provided certified frequency plan for the satellite. In such cases, it would be hoped that Ofcom would be able to accept a letter from the spacecraft manufacturer simply confirming which frequency assignments are covered by the contract and it would be helpful if Ofcom’s Procedures could be amended to show that such an alternative would be permitted.</p> <p>The deliverable of “the satellite network operators’ licence application to the administration” is open to interpretation as to what is required. In the context of CR/343 it was understood to mean the licence to operate the satellite, i.e. for UK operators, the OSA Licence issued by UK Space Agency. Since this is something the ITU could request, we believe provision of this to Ofcom is reasonable. However, if something else is required here such as individual licences on a per country basis, then we think this goes beyond the requirements of CR/343 and should not be a mandatory deliverable under Ofcom Procedures.</p> <p><u>Paragraph 5.9</u> We believe the additional information being requested under paragraph 5.9 is an unnecessary duplication of the information already requested as part of the Stage 3.3 Deliverables referred to in Table 1 or is already adequately covered by the existing Procedure of paragraph 5.9.</p> <p>Transponder lease contracts (as required under Stage 3.3 Deliverables) and information on the “services being offered on each transponder, highlighting and explaining any activity changes over</p>

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	the year” is information which is commercially sensitive and confidential to the operator and we believe should not need to be provided.
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>Under the RR, filings submitted to the ITU may include assignments which are non-compliant with the provisions of Article 5 but where an undertaking is made to operate on a non-interference basis under RR 4.4. It is not clear from the new paragraph 5.x whether Ofcom may permit any such filings or, if so, under what circumstances.</p> <p>Our comments on how the other changes are worded in the proposed revised Procedures are included in our comments on the proposals above.</p>
QUESTION 2	
<p>Do you have any comments on our proposals to clarify the information required when there is a change to the business plan?</p>	<p>We have been unable to establish where in the Procedures the proposal in paragraph 4.16 to set a time-period of 30 calendar days in which Ofcom would inform the applicant in writing of any action to be taken as a consequence of a change in the business plan is referenced. We believe this could be added to paragraph 5.y.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>Since a filing may have more than one regulatory period associated with it, perhaps this could be reflected in the wording of paragraph 5.y as suggested below:</p> <p><i>If the assessment shows that the change to the business plan is such that the milestones cannot be adjusted so as to complete the project within the regulatory period/(s) of the filing, Ofcom may consider whether it would be appropriate to cancel the filing.</i></p>
QUESTION 3	
<p>Do you have any comments on our proposed changes to the reporting requirements illustrated in paragraphs 4.18-4.25 above?</p>	<p>We welcome the consolidation of the six monthly reports into a yearly report and believe the reporting requirements for satellite networks not yet brought into use to be reasonable. However, for networks that have been brought into use, we believe the existing procedures are already sufficient to enable Ofcom to fulfil its reporting obligations to the ITU. The new requirements being proposed would be unnecessarily onerous for both operators and Ofcom and in some cases are not relevant to the status of the operational satellite filings. Furthermore, we foresee some difficulty in fulfilling all the new requirements if these changes are implemented. In particular, some of the information being requested is highly commercially sensitive such as with regard to issues experienced by the payload and services being offered on each transponder, including any activity</p>

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	<p>changes over the year. We would also have difficulty in reporting services on a transponder basis due to the nature of the satellite design of some of our satellites and the flexibility with which we assign frequencies to beams which would make it particularly problematic in identifying specific frequency band/beam/coverage information. Consequently, we believe that the changes being proposed to paragraph 5.9 of the Procedures are unnecessary with the exception of the final paragraph with respect to the action to be taken by Ofcom in the event a report is not received on time.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>We have no comments on the changes to paragraph 5.6 or on the final proposed paragraph of 5.9 relating to the action to be taken by Ofcom in the event a report is not received on time.</p>
<p>QUESTION 4</p>	
<p>Do you have any comments on our proposal that a request for notification under No. 11.41 must be supported by evidence of efforts to coordinate with the other operator(s)/administration(s)?</p>	<p>We agree with the proposed addition in general. However, we foresee there may be some difficulties in being immediately compliant with the Procedures set out in paragraph 7.8 if they are introduced towards the end of this year since although operators may have had several attempts to coordinate on an operator to operator basis without any response, they may not necessarily have requested the involvement of Ofcom so far in pursuing the coordination further, and as such there may be insufficient time in which to have evidence of one or more follow up letters from Ofcom.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>We have no comments on how these changes are worded in the proposed revised Procedures.</p>
<p>QUESTION 5</p>	
<p>Question 5: Notification where coordination between UK operators has not been completed.</p> <p>Do you have any comments on our proposal to clarify the Procedures to set out that we may, at our discretion, allow UK satellite networks with junior filings to be notified to the ITU without requiring completion of all frequency</p>	<p>We welcome the clarification that there may be circumstances where Ofcom may allow junior networks to be notified to the ITU even if coordination has not been achieved with senior UK filings since this brings UK operator to operator practice in line with Administration to Administration practice. However, it is our understanding from the wording within paragraph 6.xxx “with higher regulatory precedence” that, for networks subject to coordination, seniority would be based upon receipt date of the CR rather than receipt date of the API as defined in the Consultation Document notes 4 and 5.</p>

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<p>coordination with UK networks having senior filings, and the conditions on which we would proceed with notification in such cases?</p>	<p>We believe it would be good practice to expand upon the requirements set out in paragraph 6.xxx to further align UK operator to operator practice with the Administration to Administration requirements of RRs 11.42 and 11.42A in respect of the action required in the case of harmful interference in that a report should be provided using to the extent possible the format prescribed in Appendix 10 of the RR and that both operators should cooperate in the elimination of harmful interference. We further believe that it should only be the assignments that were the subject of the harmful interference which may be considered for cancellation rather than the filing in its entirety.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>Suggested amendment to the text of 6.xxx to include action required in the case of harmful interference as well as a suggested amendment with respect to potential cancellation is highlighted below:</p> <p><i><u>Ofcom may, at its discretion, submit notification data for a satellite network to the ITU-BR where coordination is still in progress with affected UK networks with higher regulatory precedence, including those of a British Overseas Territory, the Channel Islands and the Isle of Man. In such cases, the applicant must notify Ofcom that coordination for such satellite network is not completed with affected UK networks, must provide Ofcom with relevant information on the status of the coordination (including which UK networks coordination has not been completed with) and evidence to support its request for notification as Ofcom may require. This may include proposals submitted by the applicant to operators of existing UK networks, together with their responses if available. Any operation of a network notified under these circumstances can only be on a non-interference and non-protection basis with respect to any senior UK network with which coordination was not completed. Should the junior UK network cause harmful interference to any more senior UK network with which coordination was not completed, the operator of the senior network will provide a report to both the operator of the junior network and to Ofcom using to the extent possible the format prescribed in Appendix 10 of the RR. Both operators shall cooperate in the elimination of harmful interference. Ofcom may request the operator responsible for that junior UK network to immediately eliminate such interference. Failing to do so, Ofcom may consider whether it would be appropriate to cancel the filing assignments which were the source of the harmful interference.</u></i></p>
QUESTION 6	
<p>Do you have any comments on our proposal to</p>	<p>Although we believe Ofcom's existing procedures already enable it to fulfil its obligations regarding</p>

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<p>change the text of the Procedures to clarify that, in order to make the declaration of bringing into use for GSO networks, we may require a range of information from the operator, including that set out in CR/343?</p>	<p>the declaration of bringing into use, if the proposed change is implemented it does not take account of any confidentiality concerns as recognized by the ITU in CR/343, para. 2.4.2. We would therefore welcome Ofcom’s clarification as to whether it will be entering into a non-disclosure agreement with the Bureau as envisaged in para. 2.4.2. We also believe it important to state in the procedures how Ofcom intends to ensure the confidentiality of the information it receives and whether it intends to have non-disclosure agreements in place with its operators.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised Procedures?</p>	<p>An appropriate sentence regarding confidentiality should be included in paragraphs 10, 16 and 21 of Section 7.</p>
<p>QUESTION 7</p>	
<p>Question 7: Bringing into use NON-GSOs</p> <p>Do you have any comments on our proposals that, for non-GSO systems, operators are asked to indicate, at CR/C stage, the minimum number of satellites needed to be deployed in order to provide the intended service to at least the declared minimum quality of service, and that this information (i.e. the minimum number of launched satellites) is used to verify that the system has been brought into use?</p>	<p>We agree that CR/C stage is the appropriate time to request this information. We therefore believe this should be shown as a Stage 3 deliverable in Table 1 rather than a Stage 1 deliverable.</p>
<p>Do you have any comments on how these changes are worded in the proposed revised</p>	<p>We have no comments on the wording but only on its placement within Table 1. In order to correctly reflect that this information is being requested at CR/C stage, we believe that the additional</p>

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Procedures?	wording in Table 1, Stage 1 Deliverable should be removed and provision made for this requirement within the Stage 3 deliverables section of Table 1. We have no comments on the wording in paragraphs 10, 16 and 21 of Section 7.
QUESTION 8	
Do you have any comments on our proposal to include provisions in the Procedures for the transfer of an application at API stage, subject to certain conditions being met?	We welcome the inclusion of provisions in the Procedures setting out the circumstances under which Ofcom would allow the transfer of an application at API stage.
Do you have any comments on how these changes are worded in the proposed revised Procedures?	We have no comments on how these changes are worded in the proposed revised Procedures.
QUESTION 9	
Question 9: Do you have any comments on our proposals to set out the requirements on operators and the consequent actions that we may take in cases where assignments are no longer in use?	<p>We understand the reason for Ofcom to be informed immediately of events leading to the cessation of operation of any assignment notified to the ITU as having been brought into use in order for it to be able to fulfil its ITU obligations. However, the need to provide specific details of plans in the event of an anomaly being suffered on board a satellite preventing operation of certain assignments is unnecessary and more onerous than ITU requirements and in practice operators may have difficulty in fulfilling such a requirement immediately. We therefore believe that the changes to the Procedures should only relate to:</p> <ul style="list-style-type: none"> - immediately informing Ofcom of a relocation or of an anomaly occurring preventing operation of notified assignments for a period of longer than six months; and - ensuring that Ofcom is given sufficient time to comply with the ITU Regulations regarding suspension of an assignment/(s) in accordance with No. 11.49, if it subsequently decides it would be appropriate to request Ofcom to submit a notice of suspension of use to the ITU. Within the current ITU filing regime we would anticipate it to be the case that most operators would wish suspension of use to be requested rather than suppression.
Do you have any comments on how these changes are worded in the proposed revised	Suggested changes to the wording of paragraph 12.z:

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Procedures?	<p><i>In the event that a satellite either</i></p> <ul style="list-style-type: none"> - <i><u>suffers an anomaly and as a result is no longer able to operate all, or part of the assignments notified to the ITU as having been brought into use, or recorded in the MIFR, or</u></i> - <i><u>is relocated from the relevant orbital location,</u></i> <p><i>The operator shall immediately inform Ofcom of the situation and shall provide a plan which shows either how and when the situation can be remedied (in the case of anomaly) or how and when operation of the assignments is to be continued thereafter (in the case of a relocation). and, if suspension of use is required, in sufficient time to enable Ofcom to act in accordance with No. 11.49 within the given regulatory deadline."</i></p> <p><i>Depending on the information contained in the plan provided above, Ofcom may consider whether it would be appropriate to suspend the assignments under consideration in accordance with No. 11.49 or cancel them.</i></p> <p><i>If Ofcom is not informed of such an event, then if and when these events become known to Ofcom, Ofcom will consult with the operator, which may lead to the assignments either being suspended in accordance with No. 11.49, or cancelled.</i></p>