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Representing:

Organisation

Organisation (if applicable):

O3b Limited

Additional comments:

O3b Limited ("O3b") submits its views on this Consultation as a member of the U.K. satellite and telecommunications industry with offices in Jersey, and as a U.K.-notified satellite system before the ITU. O3b will operate a non-geostationary satellite system ("NGSO") using a medium-Earth orbit ("MEO") to provide very high speed broadband connectivity worldwide in the Ka band. O3b's first launch for its constellation of satellites is scheduled in May 2013, under a U.K. Outer Space Act ("OSA") licence from the U.K. Space Agency. O3b's second launch of four satellites is expected in August 2013.

Question 1: What are your views on Ofcom's proposed priorities for 2013/14?:

Among the Draft Priorities for 2013/14 is "Strategic Purpose 2: secure optimal use of spectrum." As a provider of fibre speed broadband satellite capacity, O3b needs unsegmented, co-primary access to Ka band spectrum in the U.K., including the "18 GHz" band as well as the "28 GHz" band recently segmented by auction. O3b considers that Ofcom should address the issues arising as a consequence of the auction as a priority in 2013/14. The auction of a part of the Ka band spectrum has resulted in a barrier to entry for broadband satellite systems such as O3b and other U.K. satellite companies which use these bands. O3b can share the spectrum with other services in a variety of ways, but now, as a result of the auctions, O3b must also - at a minimum - negotiate with Arqiva and Ofcom if it wishes to offer capacity to customers in the U.K. This makes it more difficult and possibly more expensive for O3b to offer its state-of-the-art broadband connectivity to service providers in the U.K.

Question 2: What are your views on Ofcom's proposed work areas for 2013/14?:

O3b believes that Ofcom should clearly recognize in all of its policies and guidelines that it represents the "whole of the U.K." - explicitly including companies based in the Overseas Territories and Crown Dependencies, in a similar way to Ofcom's recognition in Section 6.2 that its "duties reflect our responsibilities towards citizens and consumers across the whole of the U.K." [emphasis added]. As a Jersey company that relies on Ofcom's support and representation at the ITU and other international regulatory bodies, O3b notes that the Draft Annual Plan makes no mention of Ofcom's obligations to represent the British Overseas Territories, the Channel Islands, and the Isle of Man before the ITU.

Section 1 of Ofcom's own "Procedures for the Management of Satellite Filings" makes clear that it is Ofcom who submits applications to the ITU on behalf of the Overseas Territories, the Channel Islands, and the Isle of Man. The Overseas Territories, the Channel Islands, and the Isle of Man, in fact, may not have direct relations with the ITU, not being sovereign states, and must depend on Ofcom to represent their interests. Ofcom has the power to fulfill the role of notifying administration for the British Overseas Territories, the Channel Islands, and the Isle of Man pursuant to Section 22 of the Communications Act 2003 and has undertaken to fulfill this role. It is unfortunate and worrisome, therefore, that this important relationship is forgotten in the Draft Annual Plan.

There are two areas of relationship-building that Ofcom could improve in 2013/14 and which O3b considers should be included in Ofcom's Annual Plan: greater interaction with the U.K. satellite industry and on behalf of the satellite industry at European and other international fora; and greater integration of policy with the U.K. Space Agency ("U.K.S.A.") on satellite regulatory matters.

It is essential that Ofcom improve the direct representation of the U.K. space industry in international fora. This support is vitally needed, especially if the U.K. Government wishes to help its telecommunications and space industries compete in the global marketplace. Small and Medium Enterprises (SMEs) especially need a strong and organized champion in the international space policy arena, and Ofcom's support of U.K. industry would be deeply welcomed.

In addition, the inter-agency relationship between Ofcom and the U.K.S.A. needs to be critically improved to better encourage growth in the U.K. satellite industry. While both agencies currently support the space and satellite industries in some aspects and fora, a deeper cooperation between these two agencies is needed to support U.K. companies and especially SMEs.

For example, under the current procedures, a satellite venture must begin its U.K. government relations with Ofcom for its ITU filings, but then must turn to the U.K.S.A. for its launch and in-orbit operations licensing. Stage 1 of Ofcom's Procedures - before Ofcom will even submit the satellite filings to the ITU - is to submit a business plan showing evidence of the "financial ability to meet the costs of construction and launch... [and] to operate the system for at least three years." Stages 2 and 3 require twice-yearly progress reports on the progress of the business plan against milestones.

Separately, the U.K.S.A. has its own distinct procedure for assessing whether a satellite operator's business is sound, which does not start until many years after an operator has constructed and built its satellite(s), its satellite control network, and has contracted for launch and commercial operations. It is possible for many years of reporting to Ofcom to go

by (finding that an operator has "adequate financial backing" and is compliant with Ofcom's guidelines), and then - six months prior to launch - the U.K.S.A. may look at the same technical, operational, and business information, but apply different evaluation criteria, and come to an entirely different conclusion.

This dichotomy between the two authorities, and the impact of the different conclusions that they may each come to at the most critical time in a satellite company's progress, can be damaging to even the most established companies, but it can be potentially devastating to a start-up satellite enterprise. The U.K. satellite industry deserves and requires a more consistent and integrated approach between Ofcom and the U.K.SA if U.K. excellence in space, innovation and business is to be effectively promoted worldwide.

In summary, O3b appreciates Ofcom's openness in the evaluation of its Draft Annual Plan, and hopes that the areas we have identified can be included in Ofcom's priorities and programme of work in the final Annual Plan, with sufficient resources put towards the issues we have addressed. O3b looks forward to working with Ofcom for many years, and we remain at your disposal should you have any questions or wish to discuss our views further.