



Procedures for the Management of Satellite Filings

A Statement on amendments to the Procedures

Statement

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About this document

Ofcom manages satellite filings – the process for obtaining internationally recognised orbital positions and frequency assignments for satellites – on behalf of companies and other organisations registered in the UK, the British Overseas Territories, the Channel Islands and the Isle of Man. To provide clarity to stakeholders, we maintain a set of Procedures that explain our approach to managing those filings. The most recent version of the Procedures was published in 2007.

This document sets our decision to update the guidance which is set out in our Procedures following the consultation we published in April 2015.

The update takes into account changes to the international regulations that govern the process for satellite filings since 2007, including those made by the World Radio Conference in 2015, the experience we have acquired in applying our Procedures over the last nine years and stakeholder feedback to our April 2015 consultation.

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Section 1

Summary

- 1.1 This statement summarises the amendments we have made to update the guidance which is set out in our Procedures for the Management of Satellite Filings following a consultation we published in April 2015¹.
- 1.2 In deciding on these amendments, we are guided by the principle that we should focus our efforts on supporting the underlying aim of the ITU satellite filing regime to secure the efficient use of orbital assignments and radio frequencies which are a scarce resource. We believe this will deliver the greatest value to the UK. In doing so, we also want to keep the regulatory burden that we impose on stakeholders to the minimum necessary to achieve this overarching objective.
- 1.3 We consulted on nine different topics. Taking into account the comments we received from those stakeholders who responded to our consultation, we have decided:
 - To modify the list of deliverables an applicant must provide to Ofcom during the regulatory process of a satellite filing. We will require only those deliverables that are readily available to an applicant;
 - To clarify that an applicant should promptly inform Ofcom of any changes to the business plan that may affect its project milestones or the technical parameters of the relevant filings;
 - To streamline an applicant's reporting requirements to Ofcom on its filings before and after bringing them into use. In particular, we have decided to replace six-monthly reports with annual ones. Rather than submitting a number of separate reports on each of the filings relevant to them, stakeholders can submit a single consolidated report. Our revised Procedures clarify the content we would expect in this report;
 - To allow, under certain conditions, the notification of a filing even where coordination with UK and/or non-UK satellite networks² is not complete;
 - To clarify that Ofcom may ask the applicant to provide additional information on the satellite network following a request to bring into use the associated filing(s);
 - To clarify that Ofcom's consideration of whether to notify a satellite filing for a non-geostationary satellite system will depend on the number of satellites deployed. We will compare the number of satellites deployed to the minimum number of satellites required to provide the intended service specified in the business plan;
 - To allow, under certain conditions, the transfer of ownership and control of a filing at Advanced Publication Information (API) stage; and,

¹ <http://stakeholders.ofcom.org.uk/consultations/satellite-filings-15/>

² For the purpose of this document, the expression "satellite network" refers to technologies making use of either geostationary or non-geostationary satellites, unless stated otherwise.

- To clarify what Ofcom may do following an anomaly or relocation of a satellite, including the suspension or cancellation of the relevant frequency assignments.

Section 2

Introduction

- 2.1 This document summarises our decision to amend the guidance which is set out in our Procedures for the Management of Satellite Filings (referred to as the “Procedures” in the rest of this document) following the consultation we published in April 2015.

Background

- 2.2 Satellite networks make use of scarce and finite spectrum and orbital resources, and have the potential to interfere with each other. In order to minimise this risk, a detailed regulatory framework based on the ITU Radio Regulations must be followed by administrations filing to the ITU for their satellite networks.
- 2.3 Ofcom is the responsible administration for managing satellite filings at the ITU on behalf of the United Kingdom, the British Overseas Territories, the Channel Islands and the Isle of Man.
- 2.4 In order to provide satellite operators with regulatory certainty on the process for getting access to internationally recognised spectrum and orbital resources, we provide details of the relevant Procedures. These Procedures include the requirements a satellite operator filing through the UK needs to meet so that we can fulfil our national and international obligations.
- 2.5 By making our Procedures as clear and as effective as possible, we want to make sure that Ofcom creates an appropriate regulatory environment for operators wishing to deploy satellite networks. We also want to make sure that we focus our efforts appropriately, but do so in a way that keeps the regulatory burden on stakeholders to a minimum.
- 2.6 We also recognise the importance to stakeholders of timeliness in the processing of satellite filings given the first-come, first-served nature of the ITU process. Therefore, we will continue to improve the effectiveness and efficiency of our internal processes for managing satellite filings and for processing the due diligence information provided by stakeholders.
- 2.7 The most recent version of Ofcom’s Procedures for the Management of Satellite Filings was published in March 2007. Since then, there have been changes to the international regulations that govern the process for satellite filings, including those made by the 2015 World Radio Conference (WRC-15).

The April 2015 consultation

- 2.8 In April 2015 we consulted on a range of amendments we proposed to make to the Procedures. The aims of these proposals were to keep the Procedures up to date and to reflect what we had learnt from the experience of applying them over a number of years.

2.9 17 stakeholders responded to our consultation and those responses that were not marked confidential are available on Ofcom's website³. This important feedback from stakeholders has informed our views when updating our Procedures.

Structure of this document

2.10 The rest of this document is organised as follows:

- Section 3 contains a summary description of the issues we consulted upon, the relevant comments we received from stakeholders and our decisions on how to update our Procedures accordingly; and,
- Section 4 covers a number of further amendments we have decided to make to take into account the outcome of the recent WRC-15.

³ <http://stakeholders.ofcom.org.uk/consultations/satellite-filings-15/?showResponses=true>

Section 3

Responses and conclusions

- 3.1 This section contains an analysis of the main comments made by stakeholders on each of the topics we consulted upon, together with our conclusions.

Question 1 – Milestones, evidence requirements and deadlines

- 3.2 In order to provide us with more certainty on whether a satellite project has reasonable prospects of coming to fruition, we proposed introducing additional milestones that operators have to meet before the Bringing into Use (BiU) of a satellite filing. Meeting these milestones will provide us with more certainty on whether an applicant will be able to implement their project within the proposed timeline.
- 3.3 Many respondents disagreed with this proposal, as, in their view, providing the information to meet the additional milestones would increase the administrative burden on them and on Ofcom. Furthermore, some stakeholders said that, by making the Procedures more burdensome, operators would be dissuaded from filing through Ofcom and/or from basing their operations in the UK.
- 3.4 We take this concern very seriously. To limit the administrative burden on stakeholders we will therefore only request deliverables that will be already and easily available to applicants pursuing a real satellite project. We believe the text in the new version of the Procedures (revised in the light of stakeholders' comments) is consistent with this position.
- 3.5 Some stakeholders also said that, in some cases, the description of the new milestones and/or the information sought by Ofcom in relation to them was not clear in the consultation. We have therefore revised the text on the new milestones to clarify what information we require and why.
- 3.6 Furthermore, some stakeholders said that in order to comply with the new milestones, they may need to make commercially sensitive information available to Ofcom and were concerned how this confidential information would be handled.
- 3.7 Ofcom is very used to dealing with confidential stakeholder information and managing this appropriately. Section 393 of the Communications Act 2003 ("the 2003 Act") makes it a criminal offence for a person at Ofcom to disclose (in the circumstances set out), without consent, information about a particular business which it has obtained in exercise of a power conferred by the 2003 Act.
- 3.8 Taking into account all of the above, we have decided to implement most of our consultation proposals in the new version of the Procedures, but we have clarified the proposed text and simplified some of the information requirements. For example, we no longer require evidence of an operator's financial ability to meet the costs to construct and launch the proposed satellites at Stage 1 of Table 1 of section 5.

Question 2 – Changes to the business plan

- 3.9 Under our existing Procedures, we expect applicants to show to Ofcom how their satellite project can be realised within the relevant regulatory limits associated with

the spectrum and orbital resources for which they are filing. We expect applicants to show this through the submission of a business plan.

- 3.10 We expect that this business plan will explain, among other things, how the project can meet the milestones set out in section 5 of the Procedures.
- 3.11 In our consultation, we proposed to clarify that applicants should inform Ofcom of any material changes to the business plan supporting their filings.
- 3.12 We also proposed that following any such changes, applicants should assess whether they would still be able to meet the project's relevant milestones. Furthermore, we proposed that applicants should provide an assessment of whether any of the filing's parameters should be updated accordingly.
- 3.13 Some respondents argued that the current Procedures are already clear that updates to their business plan should be provided to Ofcom; others welcomed the proposal.
- 3.14 Nevertheless, respondents noted that it may be onerous for an applicant to provide Ofcom with every small update to a business plan. Others also noted that it may be difficult to determine which changes are *material* without a clear definition of the term.
- 3.15 Taking those comments into account, we have amended the relevant text of the Procedures (new sections 5.9 and 5.10), to clarify when applicants should inform Ofcom of changes to the business plan. Specifically, they should inform Ofcom when there are any changes that have an impact on their ability to meet the milestones set out in Section 5 of the Procedures or necessitate any modification to the technical parameters of the filing.
- 3.16 When we are informed of relevant changes to the business plan, we will determine whether any consequential actions on the filing may be needed.

Question 3 – Reporting requirements before and after Bringing into Use

- 3.17 In our consultation we proposed ways to simplify and clarify our reporting requirements on satellite filings.
- 3.18 First, we proposed to replace the requirement for six-monthly reports before BiU with a requirement for yearly reports. We also proposed to consolidate the yearly reports so that each applicant would submit to Ofcom a single report covering the entirety of its filings, including those which are before and after the BiU stage.
- 3.19 Respondents generally welcomed these proposals and we have decided to implement them in the new version of the Procedures.
- 3.20 Second, we proposed to clarify the content we would expect to see in the reports that applicants provide. Among other things, this information would assist us in making sure that the applicant is using the spectrum and orbital resources for its satellite network in accordance with the filing's parameters.
- 3.21 A number of stakeholders expressed concerns about specific elements to be included in the yearly reports.

- 3.22 We have decided to adopt most of our proposals but have made the following amendments and clarifications to simplify the requirements and address concerns raised by stakeholders:
- We have removed the requirement to list the services being offered on each transponder, including any activity changes over the year;
 - We have amended the requirement to report the operational or testing activities undertaken. We have clarified that we do not require detailed results of those testing activities. However, we do need to understand whether the satellite, after the relevant tests, can operate in accordance with the notified characteristics of the filing; and,
 - We have clarified that we expect information on the frequency bands used by each satellite beam and their geographical coverage which is current at the time of the writing of the report. We recognise that the information may change over the course of the year, but do not require information covering the whole year.

Question 4 – Notification where international coordination has not been completed

- 3.23 Under No. 11.41 of the Radio Regulations, assignments can be recorded in the Master International Frequency Register (MIFR) even where coordination has not been completed with all those assignments with which coordination is required, subject to conditions set out in the Radio Regulations.
- 3.24 WRC-12 adopted No. 11.41.2 to clarify that the recording under No. 11.41 should be considered a measure of last resort and that the normal expectation is that notification follows only after coordination has been completed with all the relevant assignments.
- 3.25 In our consultation we proposed to clarify that we may notify a frequency assignment to the ITU-BR under No. 11.41 only if the request to Ofcom for submission of the notification can be supported by sufficient evidence that coordination efforts have been made and have not been successful in reaching an agreement.
- 3.26 Stakeholders generally welcomed our proposal and we have decided to implement it in the new version of the Procedures.

Question 5 – Notification where coordination between UK operators has not been completed

- 3.27 In the previous version of our Procedures, we required that coordination had to be completed with affected UK networks with higher regulatory precedence before Ofcom could submit the notification data for an applicant's network to the ITU-BR.
- 3.28 We recognise that requiring completion of all UK-to-UK coordination prior to the notification of the junior network may be impractical in certain cases, with the risk that an applicant's network may miss its regulatory deadline and be suppressed.
- 3.29 In cases where Ofcom represents more than one operator for whom UK-to-UK coordination is required, Ofcom would not intend to deny such an operator a route to filing which would have been available to it (under No. 11.41) if that operator had been represented by a different national administration from another country.

- 3.30 We therefore proposed to amend section 6 of the Procedures to clarify the circumstances in which we may, as a last resort, and if we were satisfied that adequate efforts have been made to achieve coordination, allow notification of UK networks when not all coordination between UK operators has been completed. In practice, we proposed to adopt an approach similar to when coordination with non-UK networks is not completed.
- 3.31 The majority of stakeholders welcomed our proposal, noting that it is sometimes impractical to complete coordination with other senior networks, including UK networks, before the expiry of the regulatory deadline.
- 3.32 Some stakeholders suggested that Ofcom should consult with the operator(s) of the senior network(s) before submitting the notification data to the ITU-BR. Ofcom may consider consulting in the manner suggested when exercising our discretion as described in the Procedures.
- 3.33 Taking into account all of the above, we have decided to implement our proposal in the new version of the Procedures.

Question 6 – Bringing into use of geostationary satellite networks

- 3.34 Under No. 11.44B of the Radio Regulations, in order to BiU a frequency assignment to a space station in geostationary orbit, a geostationary satellite with the capability of transmitting or receiving that frequency assignment has to be deployed and maintained at the notified orbital position for a continuous period of ninety days. Furthermore, the notifying administration must inform the ITU Radiocommunication Bureau (ITU-BR) within thirty days of the end of the ninety-day period.
- 3.35 Ofcom is responsible for declaring to the ITU-BR when UK, British Overseas Territories, Channel Islands and Isle of Man's geostationary satellite networks have been brought into use. Since a frequency assignment is brought into use on the basis of (among other things) the capabilities of a certain satellite, we must satisfy ourselves through evidence that any such declaration is true.
- 3.36 In our consultation we proposed an additional milestone in Table 1 of section 5 to clarify that we may ask an applicant to provide us with information to demonstrate the accuracy of the BiU declaration. Those deliverables were the same as those described in the ITU Circular Letter CR/343.
- 3.37 Many stakeholders disagreed with our proposal, disputing the validity of the Circular Letter mentioned above and whether the additional information would provide further evidence relevant to the BiU declaration. Some also highlighted that it was unclear from the proposed new text whether Ofcom intended to gather that information systematically and/or mandatorily.
- 3.38 Nevertheless, if Ofcom is unable to provide the evidence requested by the ITU-BR, the ITU-BR may cancel the filing. Furthermore, we note that in some cases, and independently from any request from the ITU-BR, we may wish to have such information available to us to ensure that the declaration made in accordance with No. 11.44B of the Radio Regulations is correct.
- 3.39 We have therefore decided to include the requirement to provide the information described in ITU Circular Letter CR/343 in the new Procedures. However, stakeholders need to provide us with the relevant information only on request and not

systematically. As a result we have removed this requirement from Table 1 of section 5 and included it in the new section 5.7.

Question 7 – Bringing into use of non-geostationary satellite systems

- 3.40 In our consultation we proposed that an applicant for a non-geostationary satellite system should – at Stage 1 of Table 1 in section 5 – declare in its business plan the minimum number of satellites it would need to deploy in order to provide the intended service to at least the minimum quality. Our consultation also proposed that, if such a minimum number is not deployed, we will consider whether it is appropriate to submit the notification data to the ITU-BR.
- 3.41 In October 2015, we published an update⁴ on this issue in order to inform our views in preparation for WRC-15.
- 3.42 As we explained in our update, the majority of respondents welcomed our proposal. Those respondents who disagreed with Ofcom's proposal considered it inappropriate to have to commit so early in the regulatory process to a minimum number of satellites. They explained that the business plan relating to an original Coordination Request (CR/C) may vary with time and that some changes to the business plan may affect the minimum number of satellites needed to provide the intended service. They also recommended that Ofcom periodically assess such changes through its usual due diligence process.
- 3.43 We agree that we should periodically assess a satellite project and its evolving business plan, including the minimum number of satellites, through our due diligence process. This can generally be done through assessment of the yearly reports that an applicant should submit to Ofcom under section 5.11 or of changes to the business plan that an applicant should submit to Ofcom under sections 5.9 and 5.10 of the new version of the Procedures.
- 3.44 We also consider that the system's parameters contained in the filing should be appropriately kept up to date and reflect the system planned, following any changes to the latest business plan provided. We consider this could be ensured by Ofcom, after consultation with the relevant operator, submitting a modification of the original API or CR/C (depending on the frequency assignment) to the ITU, if and when appropriate.
- 3.45 Respondents also suggested that in some cases – particularly for large constellations – deploying the minimum number of satellites before a filing's regulatory deadline may be challenging. This is a factor that we can take into account in exercising our discretion described in the Procedures.
- 3.46 Taking into account all of the above, we have decided to implement our proposal in the new version of the Procedures.

⁴ <http://stakeholders.ofcom.org.uk/binaries/consultations/satellite-filings-15/statement/statement.pdf>

Question 8 – Transfer of ownership and control of a filing at API stage

- 3.47 There may be circumstances where there is a requirement for the transfer of the ownership and control of a filing between two UK operators.
- 3.48 The provisions contained in section 11 of the old version of the Procedures allowed the transfer of a filing, subject to Ofcom's approval, when it was at coordination or notification stage only.
- 3.49 In our consultation, we proposed new text to clarify that we would also allow, under certain conditions, the ownership transfer of a filing at API stage.
- 3.50 Stakeholders generally welcomed our proposal. Following a comment from one respondent, we wish to clarify that, if one of the operators involved in the ownership transfer is filing through an Overseas Territory or a Crown Dependency, Ofcom will consult with the relevant authorities prior to authorising the transfer.
- 3.51 Taking into account all of the above, we have decided to implement our proposal in the new version of the Procedures.

Question 9 – Suspension of assignments

- 3.52 There may be situations in which a satellite suffers an anomaly or is relocated from its original orbital location with no alternative replacement satellite being available. In either case, the operator may no longer be able to operate all, or part of, the assignments notified to the ITU as having been brought into use, or recorded in the MIFR.
- 3.53 In order to cover the cases above, we proposed to include new text in the Procedures that would specify what Ofcom may do to comply with the relevant ITU rules. In particular, we proposed that an operator should inform Ofcom immediately following an anomaly or relocation, and provide Ofcom with a plan setting out how it would remedy the situation. We proposed that Ofcom would take this information into account when considering whether to suspend or cancel the relevant filings.
- 3.54 Stakeholders generally welcomed our proposal. Some respondents, though, noted that it may not be possible to submit such a plan to Ofcom immediately. We have therefore decided to amend our proposed text to indicate that the operator should provide Ofcom with its plan by a deadline specified by Ofcom following the anomaly or relocation.
- 3.55 Taking into account all of the above, and subject to the clarification on the date by which a plan must be provided, we have decided to implement our proposal in the new version of the Procedures.

Section 4

Additional amendments to the Procedures

4.1 Under Agenda Item 7, WRC-15 amended some provisions of the Radio Regulations that are relevant to our Procedures. These amendments were decided by WRC-15 after our consultation was published and therefore were not included in our proposed changes to the Procedures.

4.2 The following changes were made:

a) Automatic generation of an API out of a CR/C. For those frequency assignments subject to the coordination procedure described in Section II of Article 9 of the Radio Regulations, administrations will have to submit a CR/C – rather than an API – to start the ITU regulatory process. Once the CR/C has been received by the ITU-BR, the API will be automatically generated from the information contained in it. In practice, this means that the date of receipt by the ITU-BR of the CR/C will also mark the start of the regulatory period to bring the associated frequency assignment(s) into use. For those frequency assignments not subject to the coordination procedure described in Section II of Article 9 of the Radio Regulations, the old framework was left unchanged.

b) Provision of information when notifying the BiU of a frequency assignment. In order to address the issue of using the same satellite to BiU frequency assignments of geostationary satellite networks at different orbital locations within a short period of time, the Conference decided that an administration should provide a range of information at the time of notification. This information includes a statement on whether the same satellite has previously been used to BiU frequency assignments of other networks in the three years prior to the notification.

4.3 We have decided to implement these changes in our Procedures.