

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE SECRETARY OF STATE FOR BUSINESS, ENTERPRISE AND
REGULATORY REFORM**

AND

THE OFFICE OF COMMUNICATIONS

**RELATING TO THE REPRESENTATION OF THE CHANNEL ISLANDS,
THE ISLE OF MAN AND THE BRITISH OVERSEAS TERRITORIES IN THE
INTERNATIONAL TELECOMMUNICATION UNION**

This Memorandum of Understanding is made between:

(1) The Secretary of State for Business, Enterprise and Regulatory Reform; and

(2) The Office of Communications, established by the Office of Communications Act 2002 (“Ofcom”),

jointly referred to as the “Participants”.

Whereas:

- (1) It is the duty of Ofcom to do such of the things set out in paragraphs (a) to (d) section 22(1) the Communications Act 2003 (the “2003 Act”) as it is required to do by the Secretary of State in accordance with such general or specific directions as may be given to it by the Secretary of State;
- (2) By means of Requirements and Directions dated December 2003, the Secretary of State has required Ofcom to represent Her Majesty’s Government in the United Kingdom (“HMG”) on, and at meetings of the International Telecommunication Union (the “ITU”), the Conference of European Postal and Telecommunications Administrations (the “CEPT”) and the Radio Spectrum Committee and Radio Spectrum Policy Group of the European Union;
- (3) A Memorandum of Understanding dated 16 January 2004 sets out the working arrangements between Ofcom and Secretary of State when Ofcom prepares for ITU meetings;
- (4) Ofcom has the power in Section 22(2) of the 2003 Act to do one or more of the things mentioned in Section 22(1) of the 2003 Act, as respects any of the Channel Islands, the Isle of Man or a British Overseas Territory (as defined in Annex One), if requested to do so by the Secretary of State;
- (5) In a letter dated 31 January 2005, the Secretary of State has requested that Ofcom extend its ITU representation role to the Channel Islands, the Isle of Man and the British Overseas Territories and in a letter dated 1 March 2005, Ofcom agreed;

- (6) The Secretary of State has power, in accordance with the relevant provisions of the 2003 Act, to give directions to Ofcom:
- (a) under section 22 (3) of the 2003 Act;
 - (b) under section 5(2) of the 2003 Act in relation to the functions of Ofcom under Part 2 of the 2003 Act and the enactments relating to the management of radio spectrum that are not contained in that Part for the purposes set out in section 5(3); and
 - (c) under section 156(1) of the 2003 Act;
- (7) The extent to which Ofcom implements decisions and recommendations of the Cabinet Official Committee on UK Spectrum Strategy known as the “UKSSC” may influence whether the Secretary of State wishes to give further directions to Ofcom.

The Secretary of State and Ofcom wish to set out their understanding as follows:

- 1. Representation for the Channel Islands, Isle of Man, and British Overseas Territories in respect of the ITU**
- 1.1 This Memorandum of Understanding sets out the arrangements for Ofcom’s representation, as appropriate, of the Channel Islands, the Isle of Man, and the British Overseas Territories in the ITU.
- 1.2 Ofcom will represent the Channel Islands, the Isle of Man and British Overseas Territories in the ITU.
- 1.3 Ofcom shall, in relation to representing any of the Channel Islands, the Isle of Man or a British Overseas Territory:
- (a) attend meetings of the ITU;
 - (b) make decisions or agree or disagree with any proposed decisions of the ITU;
 - (c) provide any undertakings or assurances to the ITU or to third parties;
 - (d) sign agreements on behalf of any of the Channel Islands, the Isle of Man or a British Overseas Territory;
 - (e) do any other thing which is incidental to or necessary for the representation of any of the Channel Islands, the Isle of Man or a British Overseas Territory in the ITU.

- 1.4 Ofcom and the Secretary of State accept that the provisions of paragraph 1.3 do not replace, supplant or amend existing practice in relation to the extension of international Treaties, Conventions and Agreements to the Channel Islands, Isle of Man or British Overseas Territories.
- 1.5 The following arrangements are therefore offered by Ofcom to improve coordination between the UK, the Channel Islands, the Isle of Man, the British Overseas Territories, and the ITU on matters affecting the Channel Islands, the Isle of Man and the British Overseas Territories.

2. Practical Arrangements

- 2.1 The Secretary of State will ensure that each of the Channel Islands, the Isle of Man and the British Overseas Territories provide Ofcom with points of contact for all its telecommunications and radio-communications interactions. Ofcom will then interact with those appointed bodies (whether government or regulatory) responsible for telecommunications and radio-communications when representing them in the ITU. Ofcom will consult with the appointed body of the Channel Islands, the Isle of Man and the British Overseas Territory when undertaking its representation role under paragraph 1.3.
- 2.2 Ofcom will ensure that there is provided to each of the Channel Islands, the Isle of Man and the British Overseas Territories an ITU Telecommunication Information Exchange Service account in order to gain access to all ITU documentation and information on ITU events.
- 2.3 Overseas Territories may attend ITU-related CITEL meetings as UK delegates in an observer capacity in consultation with Ofcom.
- 2.4 Ofcom will consent when required by the Secretary or State, and otherwise will consent on request from the Channel Islands, the Isle of Man or a British Overseas Territory, where reasonable and appropriate, to the requesting territory joining:
 - (a) the UK delegation to ITU meetings and conferences; and
 - (b) the UK briefing/preparatory groups for ITU meetings and conferences; and
 - (c) bilateral frequency co-ordination meetings for satellite networks in accordance with the provisions of Section 13 of the Procedures for the Management of Satellite Filings, March 2007, and other frequency co-ordination meetings as appropriate.
- 2.5 Ofcom will ensure, on request, that each of the Channel Islands, the Isle of Man and the British Overseas Territories is provided with the relevant electronic documentation associated with UK briefing and preparatory groups referred to in paragraph 2.4(b).

2.6 With regard to satellite communication projects, notwithstanding previous satellite filings submitted by any of the Channel Islands, the Isle of Man or a British Overseas Territory, Ofcom will consider any applications for satellite filings submitted to them by any of the Channel Islands, the Isle of Man or a British Overseas Territory, or a regulator of any such territory, in accordance with Ofcom's Procedure for Authorisation of Satellite Networks, March 2007.

2.7 Nothing in this Memorandum of Understanding will affect the way in which any spectrum management issues associated with military communication facilities operating from any of the Channel Islands, the Isle of Man or a British Overseas Territory are dealt with. Such issues will continue to be resolved through direct dealings between Ofcom and HMG.

3. The UKSSC

3.1 Given that an Ofcom representative attends UKSSC meetings under arrangements already in place between Ofcom and the Secretary of State with respect to the UK, the participants acknowledge that no additional representative, including any additional Ofcom representative, is required to attend in relation to the Channel Islands, the Isle of Man and the British Overseas Territories.

4. Policy line in international meetings

4.1 Ofcom will submit the policy lines which it intends to take with respect to any of the Channel Islands, the Isle of Man or a British Overseas Territory, at world and regional radio-communication conferences of the ITU to the UKSSC. Ofcom will have regard to any decisions made by the UKSSC which relate to such policy lines, in the light of the Secretary of State's power to give further directions to Ofcom referred to in recital 6 above.

4.2 Notwithstanding paragraph 4.1, if in exceptional circumstances the matter is so urgent that there is not the time to submit the policy line to the UKSSC, Ofcom will consult directly with the Secretary of State for Foreign and Commonwealth Affairs (if the policy line relates to a British Overseas Territory) or the Secretary of State for the Ministry of Justice and Lord Chancellor (if the policy line relates to any of the Channel Islands or the Isle of Man).

4.3 The Secretary of State will, in advance of meetings at which Ofcom is to represent any of the Channel Islands, the Isle of Man or a British Overseas Territory, notify Ofcom in writing of the officers or servants of the Crown who have authority to issue written directions under section 22(4) of the 2003 Act at those meetings. Ofcom will inform the Secretary of State of the person at Ofcom to whom such notification to Ofcom is to be sent.

4.4 Where an officer or servant of the Crown is given such authority after the start of such a meeting, the Secretary of State will notify Ofcom of it as soon as possible and, so far as is reasonably practicable, in writing; and where the notification is not in writing, it will be confirmed in writing as soon as possible. Ofcom will inform the Secretary of State before the meeting of the person or persons to whom any such notification or written confirmation is to be sent or given (who may be the same or different persons and may be at the offices of Ofcom in the UK or at the place where the meeting is being held).

5. Miscellaneous

5.1 This Memorandum of Understanding is not intended to have legal effect and will not bind the Participants.

5.2 This Memorandum of Understanding will enter into operation on the date of signature on behalf of both Participants.

5.3 The Participants will review this Memorandum of Understanding regularly and may decide to make any amendments as may be necessary from time to time to reflect changes to the matters set out. Any such amendments will be recorded in writing and signed on behalf of both Participants.

5.4 This Memorandum of Understanding may be terminated by either Participant on three months' written notice.

 15 October 2007

For and on behalf of the Secretary of State Date

 10 October 2007

For and on behalf of the Office of Communications Date

Annex One – Definition of British Overseas Territories

British Overseas Territories

Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Montserrat, St Helena and its Dependencies (Ascension Island and Tristan da Cunha), Pitcairn island, South Georgia and South Sandwich Islands, Turks and Caicos Islands, Sovereign Base Areas Cyprus and a “**British Overseas Territory**” shall mean any of them.