

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title: **"Procedures for the Management of Satellite Filings: Charges and amendments to procedures; additional information"**

To (Ofcom contact): **Stephen Limb**

Name of respondent: **Hiram Edwards**

Representing (self or organisation/s): **Department of Telecommunications, Bermuda**

Address (if not received by email):

### CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing	<input checked="" type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here. ☐

Name **Hiram Edwards, Acting Director of Telecommunications**



**GOVERNMENT OF BERMUDA**  
**Ministry of Energy, Telecommunications and E-Commerce**  

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**Department of Telecommunications**

**Our Ref:** DOT 204/11  
**Date:** 17<sup>th</sup> January 2008

Mr. S. Limb  
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By email

Dear Mr. Limb

**Re: Supplementary Comments**

The Department of Telecommunications of the Government of Bermuda welcomes the opportunity to provide supplementary comments on the additional information provided by Ofcom on 19<sup>th</sup> December 2007, in response to the letter from the Isle of Man's Communications Commission.

Further to the comments we provided on 20<sup>th</sup> December 2007, we would like to express our concern at Ofcom's contention that it cannot take account of work undertaken in the Overseas Territories and Crown Dependencies. Ofcom has the ability to, and should, distinguish between those procedural requirements imposed upon it by the ITU, and those which are a purely domestic matter.

This distinction can be seen in the procedures for the management of satellite filings, between those due diligence requirements imposed on Ofcom by the Radio Regulations and under Resolution 49, and the commercial information which Ofcom requires in addition to, and much earlier than, the information under Resolution 49, but which Ofcom does not provide to the ITU. Thus, the receipt and examination of this additional information is not part of Ofcom's role in representing the ITU; rather, it is supplemental to that role.

In its response to the Isle of Man Communications Commission, Ofcom quotes its statement of March 2005 and asserts that "Central to that statement was the proposition that activities

undertaken by the territories could relieve Ofcom of certain responsibilities and functions". The performance of certain administrative and commercial due diligence tasks by and within the territories represented by Ofcom in no way affects or diminishes Ofcom's role as the Administration of the United Kingdom, and Ofcom must take this fact into consideration.

The Memorandum of Understanding (MoU) has no clear provisions on this matter. Paragraph 2.6 of the MoU, as cited by Ofcom, when read in full, simply provides that regardless of any previous practices, Ofcom will apply the published UK procedures uniformly: Those procedures contain provisions relating to the territories represented by Ofcom, and the effect of paragraph 2.6 is simply to recognise this. Paragraph 5.1 of the MoU also records that the document is not intended to have legal effect and will not bind the parties to it, and this fact is also referred to in the Explanatory Note.

The Explanatory Note, in reference to "ITU 'filings'", describes Ofcom's position with respect to the ITU and the information which Ofcom supplies to the ITU-BR, rather than how Ofcom applies the UK's domestic procedural requirements. The discussion of whether or not Ofcom can delegate its authority to deal directly with the ITU-BR does not seem to address the point raised in the letter of the Isle of Man Communications Commission, which refers to "certain functions" rather than to the representative role itself.

If the current legislative framework was to be amended so that Ofcom was to acquire the power to charge fees for performing its representative role, and if that power were also to permit Ofcom to charge the Overseas Territories for this, then Ofcom must take into account any supporting and preparatory work which is undertaken by the local regulatory authorities in the Overseas Territories and Crown Dependencies, when calculating and apportioning such charges.

We trust that Ofcom will take our submissions into account, and will reconsider the position demonstrated in its statement of 19<sup>th</sup> December 2007.

Yours sincerely



Hiram Edwards

Acting Director of Telecommunications