

Hughes Network Systems, LLC, Hughes Network Systems Europe, Ltd, Hughes Network Systems, Ltd (together, "Hughes"), EchoStar Satellite Operation Corporation ("ESOC") and EchoStar Mobile Limited ("EML") (collectively, "EchoStar") provide these responses to Ofcom's consultation on proposed changes to Ofcom's procedures for the management of satellite filings.

EchoStar is the fourth largest commercial geostationary orbit satellite operator with a fleet of 24 satellites operating in the fixed, broadcast and mobile satellite service. In addition, EchoStar has three satellites under construction and several others under development. These satellites provide a wide range of services, such as direct to home satellite service, mobile satellite service and broadband satellite service, among others to users in the European Union, as well as North and South America. EchoStar has chosen to work through the United Kingdom as the ITU filing administration for many of its operating and planned satellites because of the rational approach to regulation that Ofcom has taken in this area, including its reliance on market-based regulatory forces.

Question 1: Do you have any comments on our proposals to

- 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?

Do you have any comments on how these changes are worded in the proposed revised Procedures? :

Question 2: Do you have any comments on our proposals to clarify the information required when there is a change to the business plan?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

Question 3: Do you have any comments on our proposed changes to the reporting requirements illustrated in paragraphs 4.18 ? 4.25 above?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

EchoStar supports Ofcom's proposal to eliminate the six month reporting requirements for satellite networks before they have been brought into use. See Procedures Consultation Section 4.19. Satellite networks take several years to plan, construct, deploy and test before they are put into commercial operation. Therefore, as Ofcom recognizes, because of these long time periods, yearly updates are sufficient to ensure that their construction and development are progressing as needed. Accordingly, the elimination of six month reports will reduce unnecessary administrative burdens for both satellite operators and Ofcom required by the preparation of additional reports. Moreover, by requiring satellite operators to inform Ofcom when milestones are completed and of any material changes as they occur, Ofcom can properly monitor progress, even with reports being submitted less frequently. See Satellite Procedures Consultation Section 4.19.

EchoStar also supports Ofcom's proposal to consolidate yearly reporting so that each operator would submit one report covering all of its networks at a date agreed upon with Ofcom. See Satellite Procedures Consultation Section 4.21. This proposal will "simplify and streamline" procedures, and it will also lessen administrative burdens by reducing the number reports operators need to submit and Ofcom needs to review. See Satellite Procedures Consultation Section (About this document). Furthermore, this change is purely ministerial and will therefore not affect the ability of Ofcom to monitor satellite network filings. Accordingly, Ofcom should adopt this proposal, which simplifies and streamlines reporting requirements and reduces administrative burdens.

Question 4: 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)?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

EchoStar supports the 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), and that acceptable evidence would include a written record, supported by copies of correspondence, meeting minutes and/or notes, compiling the efforts made to reach a decision on a coordination.

EchoStar has no specific comment on the wording proposed in the revised procedures.

Question 5: 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 coordination with UK networks having senior filings, and the conditions on which we would proceed with notification in such cases?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

EchoStar supports the proposal to clarify the Procedures, noting that Ofcom may allow UK satellite networks with junior filings to be notified to the ITU without requiring completion of all frequency coordination with UK networks having senior filings. EchoStar supports the conditions on which operators would proceed with notification in such cases.

EchoStar, however, proposes that Ofcom, prior to notification of a UK satellite network with a junior filing, contact the operator(s) of any potentially affected senior filing(s) to inform them of the request to Ofcom to notify the junior filing and provide the operator(s) of any affected senior filing(s) the opportunity to identify any perceived level of risk of unacceptable interference by such action. EchoStar also proposes that where the operator with higher priority is able to provide technical evidence that the incoming junior system is likely to cause harmful interference to the incumbent system, then Ofcom should withhold from notifying the system under 11.41 until successful coordination has been achieved.

EchoStar therefore proposes that notification could be made, provided that the applicant with

the junior filing:

- has attempted to achieve coordination with the UK network(s) having senior filings;
- commits to operate its satellite on a non-interference and non-protection (NINP) basis with respect to the senior filing(s) with which it has not been able to complete coordination;
- commits to satisfactorily reduce or remove any harmful interference, during its operations, which may be caused to assignments in operation on networks with senior filings that it has not been able to complete coordination with; and,
- acknowledges that if harmful interference is caused to such assignments and it fails to reduce or remove harmful interference satisfactorily, then the sections of the procedures related to the possible cancellation of the filing due to harmful interference being caused (section 12.10 or 13.10, as appropriate) would apply

And in relation to senior filings:

- that the UK operator(s) having senior filing(s) are not able to produce any technical justification for not entering into a coordination agreement with the network of the junior filing.

Separately, footnotes 4 and 5 relating to Paragraph 5.9 of the consultation document are unclear and inaccurate. Ofcom states: "By 'senior filing' we mean a filing of a satellite network whose API date of receipt precedes that of a filing of another satellite network. The senior filing has priority over the more recent (or 'junior') ones." Filing priority is given by the coordination request (CR/C) date and not the date of receipt of an API.

Question 6: Do you have any comments on our proposal to 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?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

Question 7: 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?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

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?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

EchoStar supports the proposal to include provisions in the procedures for the transfer of ownership of an application at API stage, subject to certain conditions being met. The proposal is consistent with Ofcom's history of a market-based approach to satellite regulation.

See Satellite Procedures Consultation Section 7.2. Such a change will lead to more efficient use of the orbital resource by allowing satellite operators who no longer have a need for a satellite filing to assign such filing, even early on in the process, to an operator that will put it to use. In addition, such a mechanism can benefit the public by allowing satellite operators greater flexibility to manage their satellite fleet by acquiring access to orbital slots to meet consumer demand. Accordingly, EchoStar urges Ofcom to adopt this proposal.

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?

Do you have any comments on how these changes are worded in the proposed revised Procedures?:

EchoStar does not support Ofcom's proposal regarding whether a satellite operator will be able keep access to an orbital assignment in the event of an anomaly or relocation because this proposal would create regulatory uncertainty. Ofcom's proposal states that "depending on the information contained in the plan, Ofcom may decide to suspend the assignments under consideration in accordance with No. 11.49, or cancel them." See Satellite Procedures Consultation Section 8.5. However, the proposal does not contain any criteria or guidance for Ofcom to consider when making its determination, which is especially worrisome in the event of a cancellation. The lack of any guidance or criteria would create regulatory uncertainty because satellite operators do not have any way to determine if they will maintain access to an orbital assignment. Such a result contradicts Ofcom's goal of "clear and effective Procedures for managing satellite filings" that create "regulatory certainty." See Satellite Procedures Consultation Section 2.8. Furthermore, such regulatory uncertainty harms the public interest because satellite operators will be more hesitant to plan services for consumers. Accordingly, EchoStar does not support adoption of this proposal, as it would create unnecessary regulatory uncertainty.