

GVF Ofcom Consultation on ITU Filings Response

The Global VSAT Forum (GVF) has the honour of replying to Ofcom's consultation published on 28 April 2015. GVF is a non-profit organisation headquartered in the United Kingdom, and is a leading voice of the international satellite community. Our membership is composed of more than 200 members from every region of the world and from every sector of the space industry, including satellite operators, equipment manufacturers, system integrators, and other service providers. GVF welcomes Ofcom's consultation on their procedures for management of International Telecommunication Union (ITU) satellite filings, and respectfully provide the following responses to questions about proposed changes in the procedures affecting international satellite operations and related industries.

General Observations

An administration's regulatory framework for the management of satellite filings should have certain key characteristics. It should protect existing satellite assets; attract future investment; facilitate coordination of satellite networks in conformance with domestic and ITU procedures; reduce the administrative burden on the administration and satellite operators and, where possible, effectively deter speculative or 'paper' filings for the retention of ITU priority and rights to spectrum and orbital resources.

While Ofcom clearly intends to improve its existing framework, GVF is nonetheless concerned that some of the proposals will have a detrimental effect on investment in the satellite industry in the United Kingdom, and will jeopardise the UK's reputation for regulatory best practice. Our responses to the proposed amendments to current procedures address these concerns in more detail and provide, where possible, alternative proposals which will better facilitate the objectives of the intended regulatory framework.

As a final general observation, GVF notes that WRC-15 is approaching quickly and is likely to have an impact on the matters addressed in this consultation. Therefore, Ofcom's action on these questions should take into account developments at WRC-15.

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?

Ofcom's impact assessment on their proposals for additional milestones and evidence requirements concludes that they will provide clarity and certainty for operators, and the changes will help Ofcom assure that a project is progressing, and if it is, it will be appropriate to maintain the filing. It is our opinion that further milestones and deadlines are redundant, unnecessarily onerous and will provide no further certainty that a project is progressing than do the current procedures.

Resolution 49 of the Radio Regulations (modified at the World Radiocommunication Conference 2012) requires that Ofcom provide the ITU Radiocommunication Bureau due diligence information relating to the spacecraft manufacturer and 'delivery window', and the launch services provider and 'launch window'. This requirement is satisfied when satellite operators file in adherence to Ofcom's current procedures which require an operator:

- at or before the submission of Advanced Publication Information to the ITU provide evidence of the financial ability to meet the costs of construction and launch of their proposed satellite(s);
- at or before the request for coordination provide: i) a copy of the relevant construction contract, and ii) a copy of the relevant launch services contract (or, with prior consent of Ofcom, this may be provided no later than six months prior to the planned launch date);
- at or before the submission of a request for coordination provide: i) a business plan showing progress at each stage against the (existing) milestones, ii) a full project report showing the financial, contractual and technical status of the project against the milestones specified in the business plan, and iii) interference analysis and a list of those identified administrations and networks with which coordination is required;
- before notification, provide a report specifying the status of coordination;
- before bringing into use, provide: i) confirmation of a successful launch; and ii) confirmation of the number of satellites required to bring the system into operation
- before submission of Resolution 49 data to the ITU, provide: i) an updated project report showing progress against the milestones, and ii) confirmation of the frequency assignment(s) intended to be brought into use; and
- for planned bands (Appendices 30, 30A, 30B), before bringing into use (BIU) an unmodified planned assignment demonstration, that the technical characteristics conform with those of the relevant plan.

These filing requirements oblige operators to provide Ofcom with sufficient information to satisfy the Resolution 49 requirements and to determine if a project is making the necessary progress to meet its regulatory requirements within the prescribed deadlines. The addition of a critical design review (CDR) milestone is unnecessary, and will not provide Ofcom with any additional information not already captured in the existing due diligence and reporting requirements. It is important to note in this context that complete CDR information is not always available to UK operators from the manufacturer because of export control limitations.

<i>Milestone</i>	<i>History</i>
1) satellite construction contract	Existing
2) completion of satellite critical design review (CDR)	New
3) launch services contract	Existing
4) gateway earth station contract	New
5) Regulatory authorisation for gateway earth station	New
6) report specifying status of coordination	New

Proposed Milestones

The proposed new milestones relating to Earth station contracts and authorisations for Earth station feeder links and telemetry, tracking and command (TT&C) communications will not provide Ofcom with any additional information not captured in the existing due diligence and reporting requirements, and are not relevant to the procedures for management of ITU satellite filings.

By diligently imposing the existing procedures, Ofcom can satisfy its obligations to the public interest and the ITU while enabling it to determine whether satellite projects are progressing in line with their business plans and within their regulatory deadlines. Further milestone requirements are redundant, risk existing and future investment in the satellite and supporting industries in the UK, provide no further certainty to operators above that which they have today, and will add to the administrative burden on Ofcom and operators choosing to file their networks through the UK.

Finally, we wish to note that the United States Federal Communications Commission (FCC) in their Further Notice of Proposed Rulemaking¹ are currently considering reducing the milestone requirements on satellite operators filing through the US administration by removing their milestone deadlines for contracting and satellite construction.

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?

Ofcom's existing procedures² already require that operators immediately communicate to Ofcom any changes to the business plan, including the key milestones, progress reports for each satellite network indicating any variations from the previously-submitted business plan and details of their coordination progress and status. It is not clear what problem Ofcom's proposed changes are trying to solve.

The existing requirements relating to changes to an operator's business plan, along with existing milestone requirements, as described in our response to Question 1, and existing reporting requirements are more than sufficient to allow Ofcom to judge whether a change to the business plan impacts on an operator's ability to implement the plan in line with the technical parameters outlined in the relevant satellite network filing, and within the regulatory deadline.

Separately, Ofcom's existing procedures already place upon operators due diligence requirements relating to, among other things, satellite construction, launch and coordination. Given the significant capital and operational expenditure borne by the operators to satisfy these requirements, operators are best placed to determine the regulatory and operational consequences of any change to the business plan.

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?

Ofcom's impact assessment of the proposed changes suggests that the move from six-monthly to annual reporting will reduce costs on applicants. While we welcome the move to annual reporting, we do not expect that the change will result in cost savings for satellite operators nor would it reduce the administrative burden on Ofcom or the operators.

Of the changes proposed to the content of the reporting requirements we agree that it is appropriate to include in an annual report:

- project activities undertaken, or completed, relating to the two milestones described previously – the description of activities undertaken will provide Ofcom with further

¹ FCC 14-142, IB Docket No 12-267 in the matter of Comprehensive review of licensing and operational rules for satellite services of September 30, 2014

² Milestone requirements and progress monitoring (Paragraph 5.6).

necessary information specifically relevant to the progress of the project without the addition of further milestones;

- frequency coordination activities undertaken, or completed, in the previous year – given this reporting requirement, it is not clear to us that there is any need for an additional milestone to provide further coordination information six weeks before the start of the ninety day period for the BIU, or six weeks before the regulatory deadline;
- information about any material, relevant changes or updates to the applicant’s business plan.

With regard to the proposed content of the annual reports for the first and subsequent years after being brought into use we consider that the new proposals are unnecessary. We understand that the purpose of the change is to provide Ofcom with evidence that the system is still operating in accordance with the corresponding ITU filing(s). Ofcom’s existing procedures already require operators to provide annual reports covering the assignment(s) in the Master International Frequency Register (MIFR). We therefore again consider that Ofcom can fulfil reporting obligations to the ITU by diligently enforcing their existing procedures without the need to mandate the specific content of operators’ annual reports. Such an approach would be unnecessarily burdensome on Ofcom and the operators, and some of the content proposed by Ofcom (including the services being offered on each transponder, information relating to the ground segment, and the operators annual report and financial statements) is not relevant to the status of operational satellite filings and therefore redundant in this context.

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?

We support the proposal to clarify the Procedures. Extending a procedure similar to No 11.41 to the UK networks is acceptable and the changes worded in paragraphs 6.xxx and amended 6.4 are satisfactory in principle.

We therefore support Ofcom’s proposal that notification could be made, provided that the applicant with the junior filing has satisfied Ofcom’s new procedures as follows:

- 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 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 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.

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?

We recognise Ofcom's obligation to declare to the ITU that a satellite network filing has been brought into use in line with Article 11.44B by the launch of a new satellite or the redeployment of an existing satellite to the orbital location to which the declaration relates, however, we do not consider that there is a need to amend the existing procedures to meet this obligation.

We are also aware of the ITU Circular Letter CR/343 and the non-exhaustive list of information which the ITU may request from Ofcom once the notified date of bringing into use has been received. Ofcom's existing procedures already require that some of information listed in CR/343, such as the satellite name and the payload frequency plan will already be available to Ofcom as these will be included in the satellite manufacturing contract. As noted above, Ofcom's existing procedures mandate that the operators immediately inform Ofcom of any changes to the business plan which impact on the systems capabilities to operate under the technical umbrella described by the CR/C filing. We therefore do not consider that there is any requirement for Ofcom's proposed changes to the procedures.

Separately, we consider that satellite transponder lease contracts are irrelevant to a satellite's capability of transmitting and receiving a particular frequency assignment.

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?

We agree to the proposal to include provisions in the procedures for the transfer of an application at API stage, subject to certain conditions being met. We have no specific comment on the wording proposed in the revised procedures.

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?

GVF believes that Ofcom's current procedures already adequately address service suspension except for the need for suspension of use to be notified to the ITU within six months of an event occurring preventing operation of a satellite network within its recorded characteristics. Therefore any proposed change in the Procedures should be limited to a requirement upon an Operator to notify Ofcom within sufficient time for them to act in accordance with No. 11.49 within the given regulatory deadline if they require suspension of use to be requested