



ManSat thanks Ofcom for initiating the consultation on proposed changes to the Procedures for the Management of Satellite Filings (the Procedures), and welcomes Ofcom's intent to improve the Procedures, which have remained unchanged since 2007.

ManSat makes this submission in its role as a provider of satellite regulatory and satellite spectrum services in connection with satellite filings to the satellite industry, acting under the terms of ManSat's agreement with the Isle of Man Communications Commission.

While for the most part ManSat, as an associate member of ESOA, has based its responses on the response to the consultation prepared by ESOA there are some differences. These differences can be specifically found in our responses to Question 4 and 7.

Our responses to the questions raised in the Consultation document (Consultation) are offered in the following.

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?

Again, ManSat is pleased to comment on specific questions raised by this Consultation.

We note that the most crucial part of the Procedure is the Section 5, that which addresses Ofcom's Due Diligence Requirements.

ManSat works closely with Ofcom to manage the satellite filings made on behalf of the Isle of Man, and to that extent we have a long experience in preparing due diligence submissions and then engaging with Ofcom on due diligence discussions for satellite filing.

Our opinion is that the existing framework works well to provide a clear understanding of the progress being made on filings and thereby to meet the national and international obligations of Ofcom. We suggest that what may be needed is perhaps more clarity in the Procedures, as opposed to further provisions or milestones.

For this reason we urge Ofcom to please consider offering further explanation, or indeed to prepare accompanying documentation to expand on the Procedures, especially those concerning Due Diligence.

ManSat Response to the Procedures for the management of satellite filings Ofcom consultation.



Stage 1: Deliverable 1:

We note that the requirement for minimum number of satellites identified for NGSO may not have been placed under the correct milestone. Elsewhere the Consultation documents states that such information should be to be delivered at the CR/C stage.

Our experience shows that certain key factors do change with the development of a satellite project. We would anticipate that, in the case of a NGSO system, the number of satellites required for the provision of service to be a variable until the system is brought into use. It will be important for the applicant to continue to have a dialogue with Ofcom in order to ensure that Ofcom is fully informed of developments.

In other words, Ofcom should not use specific technical aspects set at the satellite filing stages (either API or CR/C) for GSO or NGSO systems (other than for those that cannot be varied) to judge the position of a system at the BIU stage.

Stage 2: Deliverable 1:

No comment.

Stage 2: Deliverable 2:

We have seen with our engagements with Ofcom that Business Plans offered at the API and CR/C stages coupled with due diligence submissions allow us to capture all developments in connection with a satellite project. We feel that this is an effective method for maintaining records on a satellite project.

Under this deliverable Ofcom identifies a requirement "*.... if no modifications were made, a letter confirming that the deliverables submitted at Stage 1 are still valid*". The need for such letters could be avoided by noting that the Business Plan offered at the API stage continued to be effective.

Ofcom may wish to consider modifying the deliverable 2 of stage 2 accordingly.

Stage 2: Deliverable 3:

No comment.

Stage 3.1: Deliverable -- Milestones 1, 2, 3 and 4:

These are for the delivery of "evidence" showing the achievement of specific milestones of the satellite project within Ofcom stated deadlines.

We believe that if Ofcom is to set such "deadlines" to these milestones they should be done with a clear recognition of various factors affecting such activities relating to these milestones (of a satellite project).



We discuss following some examples where these milestones may not be achieved by the deadlines stated by Ofcom. For these reasons applicants should be provided with the flexibility to offer evidence that these milestones can be met and will be met within the regulatory period of the filing and not necessarily at specific deadlines stated by Ofcom. While some applicants will have the satellite construction contract concluded at or well before 36 months prior to the expiry of the filing (deadline suggested by Ofcom), others may delay the conclusion of such contracts, say, until about 24 – 30 months prior to the expiry of the filing. One of the reasons for delaying the conclusion of a construction contract could be the uncertainty associated with access to the GSO orbital position and associated frequencies. There could be instances where an applicant is continuing to monitor the developments associated with a competing filing ahead of his/her filing, with a view to going ahead with the project if the other filing expires at least 24 – 30 months before his/her filing. In such cases an applicant may decide to go ahead with the project knowing that in some cases satellites could be constructed, launched and operated within 24 – 20 months. The above is a general narrative to illustrate the point. However, what it illustrates is the crucial importance of maintaining discussions between the applicant and Ofcom to inform Ofcom of the progress being made to allow for the deployment of a satellite within the regulatory deadline of the filing. It should be noted that access to spectrum for satellite services is governed through a process with many inherent uncertainties and most industry players cannot risk investments running into £200 million or more until such uncertainty is minimised to an acceptable level. We believe this item within the Procedures merit further expansion in an "explanatory note " to this the Procedures.

Stage 3.1: Deliverable -- Milestone 4:

In addition to the above, we wish to offer the following specific comment on Milestone 4. We recognise that the "Earth Station " refers to feeder-link and TT&C stations and not user terminals -- similarly to the meaning attributed to Milestone 5 (also discussed in the Consultation). The text in the Mark-Up could be improved. Also the related definition of "Earth Station" in the definitions section of any future document should please match its use here.

Stage 3.1: Deliverable -- Milestone 5

While these authorisations are essential for the deployment of a satellite network, we do not believe that evidence on such deployments would add more substance to fundamental aim of due diligence or meeting the obligations placed on Ofcom. Ofcom should recognise that all operators /applicants do comply with relevant national regulations when operating any element of the satellite network/system.



There is no evidence to suggest that there had been any difficulty with non-compliance with national regulations. All other milestones (1 to 4) would provide Ofcom with information on the satellite project to assure Ofcom, without a doubt, on the level of progress being made on the project. Providing information to Ofcom on licences issued by other administrations for Earth stations would amount to an additional burden placed on the UK operators contrary to Ofcom's objectives stated in Section 4.5.3 of the consultation "....."*We propose to simplify and clarify the reporting requirements in the Procedures by reducing reporting requirements before BIU*" and without offering any more tangible benefit to Ofcom for its purpose of effecting due diligence. Collecting such information would be more of a bureaucratic burden on Ofcom. Additionally, Ofcom has not offered any justification for seeking this information (see 3rd bullet under Section 4.7 of the Consultation) and the impact assessment does not provide any specific assessment other than vague general narrative. We respectfully suggest that this Milestone 5 be removed from Due Diligence requirements We note that the Stage 3.1 " *Complete before the submission of a request for coordination*" should read "*Complete before the submission of a request for BIU*"

Stage 3.1: Deliverable -- Milestone 6

No comment.

Section 5.z:

The third paragraph states "*If the applicant will not meet the relevant milestone by this extended deadline then Ofcom may consider whether it would be appropriate to cancel the filing.*"

The "*this extended deadline*" stated above may be a reference to the possibility of agreeing with Ofcom an extension to the deadlines prior agreed with Ofcom. Therefore this should be clarified.

Section 5.6

No comment.

Section 5.9

No comment.

Other issues: Section 5.x

A new section has been added to state that the filing will be done only in conformity with the various ITU legal instruments, including the Radio Regulations. It should be noted that there could be cases where the services will have to be operated in non-conformity, for instance under RR 4.4.

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In such cases there could be the possibility of the need to submit filings in derogation of the Radio Regulations. This should be discussed (in the said proposed explanatory note) and made clear within the 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?

We believe that the information required to be submitted when there is a change to the business plan would be no different to that called by the current procedures.

Operators offer revised business plans to describe changes to the project and consequential impact on the milestones. These changes are then agreed at due diligence discussions. Any changes to the filings required, although such changes are only considered as a last resort because of the likely impact on the date of receipt, are usually handled in discussion with Ofcom. For these reasons we do not expect any significant change in Ofcom's operations with respect to the said changes to the Procedures. We request Ofcom to clarify this position.

We have commented on various changes to Section 5 under Question 1 above. The addition of paragraph 5.y is generally acceptable.

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?

The changes made to the reporting requirements are generally welcome. Changing reporting requirement for networks before BIU from every six months to yearly reports would ease the burden on operators. Also the consolidation of reports on all operational satellites would also assist operators.

The information required for reporting on a satellite network that has been brought into use include: (see paragraph 4.24 of the Consultation or Section 5.9 of the "marked-up")

- *services being offered on each transponder, highlighting and explaining any activity changes over the year;*
- *the frequency bands used by each satellite beam and its geographical coverage*

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With operational satellites having a large number of transponders and complex arrangements to use available frequencies within the service area, this requirement has the potential to place a huge burden on operators, and correspondingly in turn upon Ofcom.

It is noted that the regulatory requirement is to ensure that notified frequencies are being utilised effectively and not to seek detailed arrangements on frequency use. Sometimes complex commercial arrangements will require continuing changes to the use of frequencies, use of transponders etc.

Operator's resources spent on documenting such varying use of frequencies, coupled with the need to provide necessary explanations, cannot be justified, as the requirement does not relate to the main objectives of Ofcom.

We therefore suggest that the two bullet points should be combined into a single bullet point requiring the operator to demonstrate the way in which the notified frequency bands have been utilised by the satellite. For example the requirement could be written as:

- Provide information on the use of notified frequencies by the satellite

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?

The approach suggested by Ofcom to carry out notification under No 11.41 is acceptable and we understand that Ofcom's position is to implement nothing more than the current ITU requirement.

The current ITU requirement is to seek documentary evidence to show that attempts have been made to coordinate with administrations responsible for the affected networks, and in this respect a communication (fax) sent to the administration concerned is acceptable to the ITU.

Similarly, the changes worded in paragraphs 6.x and 6.xx of the revised Procedures are satisfactory, and we interpret the sentence in 6.xx " *This may include proposals submitted by the applicant to operators of existing non-UK networks, together with their responses, if available* " as nothing more than the above mentioned ITU requirement. We would be pleased if this could be further clarified in the said suggested explanatory notes.



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?

Extending a procedure based on No 11.41 to the UK networks is welcome.

The changes worded in paragraphs 6.xxx and amended 6.4 are satisfactory.

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.

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.

We also bring to Ofcom's attention that CR/343 is not widely accepted by Administrations and Ofcom should not take this circular letter as an approved document.



The information required to BIU is set out in Stage 3.3 of the Procedure. While our contention is to limit information required from operators for the BIU to those placed on Ofcom under international obligations (such as the Radio Regulations), we offer the following comments for completeness. :

Stage 3.3:

Leading paragraph in Section 3.3 stipulates with the words "shall be provided" that the list of items produced in bullet points below are mandatory submissions.

In contrast the Circular Letter CR/343, which is the origin of the concept, states "might be requested".

It appears that in contrast to the objectives set out in the consultation, the revisions to the Procedure proposed by this consultation, perhaps unwittingly, result in significantly more bureaucratic burden on both the operators and Ofcom than those envisaged by the ITU.

Stage 3.3: Deliverables -- 4th bullet:

- *the satellite network operator's licence application to the administration;*

While some other administrations offer "licences" for the operation of the network using frequency assignments acquired with a filing made nationally, the Wireless Telegraphy act does not provide for such licensing for the UK operators and consequently the inclusion of this requirement is inconsequential. It is therefore proposed the removal of this requirement from Due Diligence.

The wording in the revised procedure appears to be satisfactory. However, Ofcom should consider offering necessary explanation or a reference to the Circular letter CR/343 in the said explanatory note to the 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?

Paragraph 6.9 of the Consultation states that specific information on the NGSO system will be sought at the CR/C stage. It appears that these proposals have not been correctly transposed to the Marked-Up version. In the Marked-Up version these requirements are placed on the NGSO systems at the API stage. We have commented on this under Question 1. These requirements need to be moved to the CR/C stage.



Section 7.16 of the Procedures and also in paragraph 6.9 of the Consultation state certain conditions to be met at the BIU stage of GSO and NGSO systems.

The BIU is a crucial stage of a project with sunk investments running into several hundreds of millions of Pounds. At this stage of BIU operators cannot contemplate regulatory risks because of the inability to meet a specific condition set in the regulations by Ofcom.

Satellite project are inherently risky, not comparable to deploying a terrestrial system (i.e. cellular) following the assignment of spectrum.

The fundamental issue here is the need for operator and Ofcom to maintain a close dialogue and for Ofcom to be provided with a good understanding of the position of the project.

For instance, in the case of an NGSO system where investments running into hundreds of millions of pounds already been made, and when satellites are already in orbit, and when further launches are awaited possibly after the expiry of the regulatory deadline, the judgement to be made by Ofcom should be made by looking not just at the number of satellites in orbit, but the whole project undertaken by the operator.

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?

This arrangement for APIs, which complements the existing arrangements, is a satisfactory one to be included in the 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?

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

This arrangement will assist in dealing with situations as described in the Consultation, however, cancellation of assignments in the case of a malfunction of a satellite should not be considered unless of course if the operator concerned so desires. In the case of a satellite malfunction the operator should be given the opportunity to look at all options for placing a replacement satellite. If there is a requirement to extend the available regulatory period (i.e. suspension period), all options should be considered, including a possible referral to the RRB or a WRC.

Other comments:

We note that paragraph 13.10 of the Procedures inadvertently refers to a two year suspension period under No 11.49. This suspension period should be three years.