

COMMENTS OF TELESAT INTERNATIONAL

Telesat International Limited welcomes the opportunity to respond to the Consultation titled *Satellite Filings Cost Recovery, Proposals for implementing new charging powers under section 28A of the Communications Act 2003 – Our intended notice of charges* (the “Consultation Document”). Telesat International is a wholly owned subsidiary of the global satellite operator, Telesat Canada. Telesat Canada’s satellite fleet provides coverage and connectivity solutions to meet the needs of broadcast, corporate, telecom and government customers around the world. A number of these satellites operate pursuant to satellite filings managed by Ofcom.

The Consultation Document seeks comments on the introduction of charges to stakeholders, pursuant to section 28A of the *Communications Act 2003*, to recover the costs of satellite filing work by Ofcom. Specifically, the Consultation Document seeks comments on the drivers of its satellite filing costs, as well as Ofcom’s proposal for determining and levying fees for new submissions and modification requests, annual management of API and CR/C filings until notification, and notification requests.

As recognized in the Consultation Document, the cost recovery framework must ensure that new satellite filings are not required to cross-subsidize the costs of filings submitted prior to July 31, 2018 (“grandfathered filings”), which are not recoverable. Telesat understands that Ofcom’s preferred charging option addresses this legal requirement by allocating annual management costs across all ‘active’ filings, including grandfathered filings, for purposes of establishing the annual management fee for a filing. As discussed more fully below, Telesat is in general agreement with this preferred charging option subject to the following proviso and adjustments:

- (i) the allocation mechanism must continue to effectively remove non-recoverable costs generated by grandfathered filings from all costs recovered through fees imposed on new filings;

- (ii) in the absence of compelling evidence that management costs of GSO and NGSO filings are different, the annual management fees for GSO and NGSO filings should be the same; and
- (iii) the annual management fee should continue to apply as long as the filing is notified under the provisions of article no. **11.41** of the *Radio Regulations* (i.e., on a non-interference, no protection basis with respect to one or more networks and/or systems).

These issues, as they relate to specific questions in the Consultation Document, are addressed in more detail below.

Question 1: Do you agree we have identified the most relevant cost drivers to take account of in our charging approach?

The Consultation Document identifies the following as the most significant drivers of Ofcom's satellite filing costs: type of filing activity (e.g. filing submission, modification, notification); filing coordination requirements (e.g. API or CR/C GSO or NGSO); and, the filing period.

Telesat agrees that the type of filing activity, filing coordination requirements and filing period are the most significant cost drivers. However, Telesat does not agree that NGSO filings typically generate greater effort and costs than GSO filings.¹ The only typical *additional* effort associated with coordination of an NGSO satellite network relative to coordination of a GSO satellite is the current NGSO requirement to identify the specific satellite networks with which coordination must be effected under RR Nos. **9.12**, **9.12A** and **9.13**. However, Issue D of WRC-19 Agenda Item 7 is expected to address this difference and align the GSO and NGSO requirements. Accordingly, Telesat does not believe that the distinction between GSO and NGSO coordination identified in the Consultation Document, and greater weight (and hence costs) attributed to NGSO filings, is supportable.

¹ Consultation Document, FN19 states: "non-GSO satellites typically require an additional level of coordination above GSO (and is something the ITU are currently considering revising their charges for)". No further support for distinguishing between GSO and NGSO filings is provided.

Question 2: Are there any other factors you consider we should take account of in our charging approach? Please explain why in your response.

In determining fees payable for new filings, management costs must be attributed to all 'active' filings, including all filings that have not been suppressed.² This is critical to ensuring that new filings do not subsidize non-recoverable costs of grandfathered filings. Although non-recoverable costs (i.e., costs related to activities for satellite filings submitted prior to Ofcom notice of the new fees) will decline over time, non-recoverable annual management costs will remain until all grandfathered filings have been suppressed. Grandfathered filings will also give rise to notification costs as well as costs of ad hoc requests, maintenance and policy work. Consistent with FN 20 of the Consultation Document, these grandfathered filing costs should be recovered via retention of WTA receipts, with the exception of exceptional cases, where fees should be levied from the operator requesting the work. In order to achieve this, the formula for determining fees should be amended by adding a new Filing activity/type to Table 5 of the Consultation Document for "Ongoing costs of grandfathered filings" with an assumed volume and weighting factor that is representative of unrecoverable ongoing satellite filing costs generated by grandfathered filings.

Question 6: Do you have any comments on our proposed charging approach (as set out above)?

Telesat believes that three adjustments are required to the proposed charging approach. First, as noted at the outset, the evidence does not support a higher weighting for management of NGSO filings relative to GSO filings, including in particular the 50% higher weighting factor proposed. Rather, NGSO and GSO filings should be weighted equally, for purposes of allocating CR/C management costs and determining associated fees.

Second, as discussed in response to Question 2 above, an additional activity for ongoing costs of grandfathered filings should be added to the formula for allocating Ofcom's costs and setting satellite filing fees.

² As discussed in response to Question 6 below, 'active' filings must also include filings notified under RR No. 11.41.

Third, under the preferred charging option, Telesat is concerned that operators may avoid annual management fees by notifying a filing well before the expiry of its regulatory deadline (e.g. seven years after submission of the CR/C or API, as applicable, to the ITU for unplanned bands), to circumvent the annual filings management charge. Early notification is likely to lead to greater invocation of RR No. **11.41** for bands subject to Section II of Article 9 of the *Radio Regulations* than is the case for filings that are notified later in the regulatory period. While this is contrary to the spirit of RR No. **11.41**, there is no apparent prohibition of such conduct.

As currently proposed, annual management fees cease following notification. However, early notification under RR No. **11.41** is likely to continue to generate a similar amount of coordination work as filings that are notified at the expiry of the ITU regulatory period. Indeed, while a network/system operates under RR No. **11.41**, the operator and Ofcom must work to finalize coordination with relevant administrations and, once coordination is complete, file a request with the Bureau for removal of the RR. No. **11.41** remark from the MIFR associated with the relevant frequency assignments of the network/system. Failure to recover the costs of these activities from the relevant operator will mean that other operators with new filings bear the costs of these activities. This is clearly inappropriate.

To address this issue, Telesat proposes that the annual management fee should continue to apply as long as a No. **11.41** remark applies to any frequency assignments of a filing. This will ensure that regulatory costs are fairly apportioned to, and recovered from these filings, regardless of when they are notified.