

Dear Mr. Cesar Gutierrez,

Response to the Ofcom consultation on Crown RSA in the band 3400-3600 MHz

SES would like to thank Ofcom for providing this opportunity to respond to the consultation on 'Crown Recognised Spectrum Access in the band 3400 to 3600 MHz'. While we support the development of innovative regulatory solutions to allow for the release of publicly held spectrum, we are concerned that the solution presented in this consultation will not be suitable for all frequency bands currently under review for release to the market.

SES also requests clarity from Ofcom on two further issues. We firstly seek clarification on Ofcom's interpretation of the place of satellite services in the EC Decision on the harmonisation of the 3400 to 3800 MHz frequency band (2008/411/EC). SES also seeks also further explanation of the reasoning behind the position it has taken in this consultation.

Issues relating to Crown RSA

SES would like to support the work of Ofcom in the development of procedures that will allow the public sector, and specifically in this case the Ministry of Defence (MOD), to release spectrum to the market. We agree that the method, known as 'Crown Recognised Spectrum Access' (Crown RSA), is a feasible method for achieving this goal in the 3400 to 3600 MHz band.

However, we are concerned that the design of Crown RSA being proposed is not suitable for all spectrum bands that are identified for release by the MOD in the strategy published by the UK Spectrum Strategy Committee (UKSSC).¹ In the consultation Ofcom envisages that spectrum will be divided into Spectrum Trading Units (STUs) by means of block edge masks. The consultation also leaves open the possibility that in future bands where Crown RSA is to be applied Ofcom will use Spectrum Usage Rights (SUR) rather than block edge masks. SES does not believe that a strategy using either method will achieve Ofcom's policy goals in bands that are allocated to satellite services.² Before Crown RSA is applied to these bands, we suggest that Ofcom consult with the satellite industry to develop an approach that will ensure that any release of spectrum in frequency bands allocated to satellite services will allow satellite services to compete fairly with terrestrial services allocated to the band.³

SES is aware that Ofcom understands that satellite services will not flourish within a regulatory regime designed for terrestrial services. SES is also aware that the method of Crown RSA used in this band is unique because of the constraints that Ofcom understands to be implicit in the EC Decision on the harmonisation of the 3400 to 3800 MHz frequency band. We are aware that this response may not be the correct arena to make more general comments on other bands identified for release to the market, and therefore we hope that Ofcom will allow a specific forum in the near future to debate these issues more broadly.

Issues relating to the interpretation of EC Decision (2008/411/EC)

¹ FORWARD LOOK – A Strategy for Management of Major Public Sector Spectrum Holdings, April 2009.

² Specifically sub-bands within 15.4-17.7 GHz, 13.25-14 GHz, 7900-8400 MHz, 5000-5850 MHz, and 4400-5000 MHz.

³ Spectrum bands are to be regarded as available for satellite services if they are allocated this in the UK Frequency Allocation Table (UK FAT).

SES has concerns over the approach taken by Ofcom towards the EC Decision on the harmonisation of the 3400 to 3800 MHz frequency band. We are uncertain over some elements of the interpretation presented by Ofcom and request clarification on a number of points.

SES believes that the EC Decision should be read to ensure protection of services, such as the Fixed Satellite Service (FSS),⁴ already in use in the band. We therefore believe that the EC Decision does not mandate that only terrestrial services will be allowed access to the band in the future, but rather that a wider range of services should be protected.

In Section 4.11 of the consultation, it states that Ofcom considers that Member States cannot allow future use by services that are not currently using the 3400 to 3800 MHz band and do not qualify as 'terrestrial electronic communications networks'. To fully understand this point SES would like further clarification on Ofcom's definition of 'existing use' with regard to the EC Decision. The EC Decision states in Recital 7 that:

The fact that there are other existing applications within these bands ... does not preclude the future use of these bands by other systems and services to which these bands are allocated in accordance with the ITU Radio Regulations (designation on a non-exclusive basis). Appropriate sharing criteria for coexistence with other systems and services in the same and adjacent bands have been developed in ECC Report 100. This report confirms, *inter alia*, that sharing with satellite services is often feasible considering the extent of their deployment in Europe, geographical separation requirements and case-by-case evaluation of actual terrain topography.

SES believes that this section clearly states that, within EU Member States, the 3400 to 3800 MHz band is available for services allocated in accordance with the ITU Radio Regulations. FSS is allocated to this band in all EU Member States. Further, Articles 2 and 3 of the EC Decision state that the band shall be designated and made available on a non-exclusive basis for terrestrial electronic communications networks. SES would like to stress that these elements of the Decision mean that FSS should be allowed continued access to the band.

Further in Section 4.11, Ofcom state that, 'Member States may decide not to allow such new uses where they would affect an existing use.' SES would like Ofcom to clarify the meaning of this statement. In Article 1,⁵ the EC Decision clearly sets out that existing services must be protected, and this certainty is brought into doubt by the use of Ofcom by the word 'may' in the statement above.

In Section 4.12 Ofcom states that the parameters for out of block emissions will not necessarily be suitable where the adjacency is between a broadband wireless network and a different use. SES would therefore request that Ofcom could further expand on this to explain how it will ensure protection of FSS when it is adjacent to a broadband wireless network.

SES also believes that if the EC Decision is applied using another interpretation, i.e. that only future use by terrestrial electronic communications networks would be allowed, it would lead to a less than optimal use of radio spectrum in this band. There is no evidence to show

⁴ This includes protection for existing and future deployments under the FSS allocation.

⁵ Specifically, that the Decision is without prejudice to the protection and continued operation of other existing use in this band.



that terrestrial services in this band will be deployed in a ubiquitous way across the country – indeed, this is unlikely - and the opportunity should therefore remain to allow other services, such as FSS, to continue deployment, where possible, ensuring an optimal use of spectrum.

SES is concerned any potential ambiguity that could be created by this interpretation of the EC Decision. We request that Ofcom clarify its view, taking into account the principles of optimal use of spectrum and the concept that existing services in the band should not be prejudiced against. We are available to provide further comment if requested by Ofcom.

Regards

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SES WORLD SKIES