

## Cover sheet for response to an Ofcom consultation

### BASIC DETAILS

Consultation title: Procedures for the Management of Satellite Filings – Charges and amendments to procedures

To (Ofcom contact): Stephen Limb

Name of respondent: John A Nelsen

Representing (self or organisation/s): SES Satellites (Gibraltar) Limited

Address (if not received by email):

### CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input checked="" type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

### DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name: John A Nelsen



December 19, 2007

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Dear Sir,

SES Satellites (Gibraltar) Limited ("SES-G")<sup>1</sup> hereby provides input to the November 8, 2007, Consultation regarding charges and amendments to the Procedures for the Management of Satellite Filings ("Procedures") adopted by Ofcom in March 2007.

#### **General Comments**

SES-G is a Gibraltar satellite operator whose satellite activities are regulated by the Gibraltar Regulatory Authority ("GRA"). Currently, SES-G operates two satellites licensed by Gibraltar under the Outer Space Act<sup>2</sup>. SES-G also operates a satellite control centre and teleport facility under licenses issued pursuant to Gibraltar's Teleport Facilities Ordinance. For over a decade, SES-G development plans have been supported through filings processed by the GRA and its predecessors, and filed at the ITU by the Radiocommunications Agency (RA), and since 2003 by Ofcom. SES-G is aware that there exists a difference of opinion between the GRA and Ofcom as to the application of the Procedures to Gibraltar filings and operators. This Consultation response should not be interpreted by Ofcom as SES-G's acceptance of the application of the Procedures to Gibraltar based filings.

At the April Ofcom workshop on the new Procedures, operators and administrations of Overseas Territories, Channel Islands and Isle of Man

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<sup>1</sup>SES S.A. wholly owns three market-leading satellite operators, SES ASTRA in Europe, SES AMERICOM in North America, and SES NEW SKIES, which provide global coverage and connectivity. The company also holds strategic participations in SES Sirius in Europe, Ciel in Canada and Quetzsat in Mexico. SES S.A. provides outstanding satellite communications solutions via a fleet of 37 satellites in 25 orbital positions around the globe. SES-G is a wholly owned subsidiary of SES AMERICOM.

<sup>2</sup> Outer Space Act 1986 (Gibraltar) Order 1996.

expressed strong concerns about the provisions of the new Procedures. Ofcom's intention to amend these new Procedures, and consult the industry is welcomed.

## Proposed Amendments

SES-G understands that Ofcom's intent, as detailed in the Consultation, to amend the Procedures is as follows:

- **Cost Recovery Fees** – Adopt a single fee structure, Ofcom's preferred approach being one of scaled charges, to be applied to UK operators and operators of the Overseas Territories, Channel Islands and Isle of Man.
- **Due Diligence** - Relaxation of the requirements in the Procedures to allow an operator to propose a milestone date by which construction and launch services contracts are expected to be signed as a prerequisite for filing a co-ordination request at the ITU. The Procedures apply this due diligence requirement to UK operators and operators of the Overseas Territories, Channel Islands and Isle of Man.
- **Suppression of Filings** - Ofcom is obliged to suppress ITU filings when requested to do so by the relevant UK operator or administration of an Overseas Territories, Channel Islands or Isle of Man

## Answers to the Questions

*Q1. Are there any other options for cost recovery we should consider? If so, what are they?*

- Ofcom's fees should be entirely based on the recovery of administrative costs for satellite filings and coordination. In the case of filings submitted to the ITU on behalf of the GRA, these costs should be de minimis. Ofcom recognized in the 2005 Statement leading to the Procedures that reduced fee structures should be applied to the Overseas Territories, Channel Islands and Isle of Man in so far as there was a reduction in workload resulting from responsibilities and functions taken on by administrations of those territories.<sup>3</sup> Methodologies for cost recovery proposed in the Consultation do not take this into account.

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<sup>3</sup> Statement on Procedures for the Management of Filings and International Coordination for Satellite Networks, March 2005 §3.57: "Fees charged for filings on behalf of territories Ofcom represents would take into account any reduction in workload resulting from functions carried out by the administrations of those territories. To the extent that a UK-represented territory relieves Ofcom of certain responsibilities and functions, the fee would be lower." [http://www.ofcom.org.uk/consult/condocs/satellite\\_networks/statement/satellite.pdf](http://www.ofcom.org.uk/consult/condocs/satellite_networks/statement/satellite.pdf)

*Q2. Do you agree with Ofcom's choice of preferred option for the basis of setting cost-recovery fees for satellite filings and co-ordination? If not, what alternative would you propose and why?*

- The GRA provides significant support and oversight of Gibraltar operator filings to include monitoring of ITU IFICs to identify new filings that may cause harmful interference into Gibraltar networks, generation of draft correspondence for transmittal by Ofcom to the ITU and other administrations, support and oversight of Gibraltar operator coordination activities, and support as part of UK delegations to ITU fora (e.g. WRC 2007). SES-G directly reimburses the GRA for this effort. As recognized by Ofcom, to charge SES-G on the same basis as a UK operator without taking the above into consideration would not be appropriate. Ofcom should adopt a reduced or no fee structure in relation to Gibraltar operators reflecting the responsibilities and functions taken on by the GRA.

*Q3. Do you agree with the proposal that the Procedures should be amended so that, before submitting a request for co-ordination to the ITU, Ofcom should accept evidence of the existence of construction and launch contracts, or a firm date on which they are expected to be signed as a sufficient basis for submission of a request for co-ordination to the ITU?*

- SES-G continues to maintain that Ofcom's expectation that construction and launch contracts would be entered into by a UK operator prior to submission of a request for co-ordination to the ITU, is not realistic. Acceptance by Ofcom of target dates for signing of such contracts is a welcomed change to the Procedures. Setting of target dates in line with the requirements of RES 49<sup>4</sup> should be Ofcom's expectation.

*Q4. Do you agree that Ofcom should suppress filings at the ITU if operators request it to do so without inviting expressions of interest from other UK operators?*

- SES-G agrees with Ofcom's proposed amendment to the Procedures.

## **Recommendations**

SES-G recommends Ofcom modify its Procedures as follows:

- **Cost Recovery Fees** – Ofcom should adopt a reduced or no fee structure in relation to Gibraltar operators reflecting the responsibilities and functions taken on by that administration.

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<sup>4</sup> ITU Radio Regulations, Resolutions and Recommendations, Annex 1 to RES 49, §4: "An administration requesting coordination for a satellite network under §1 above shall send to the Bureau as early as possible before the end of the period established as a limit to bringing into use in No. 9.1, the due diligence information relating to the identity of the satellite network and the spacecraft manufacturer specified in Annex 2 to this Resolution."

- Due Diligence - Ofcom should adopt the proposed amendment.
- Suppression of Filings –Ofcom should adopt the proposed amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Jahnel Nelson". The signature is written in a cursive style with a long horizontal flourish at the end.