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Dear Sir,

Inmarsat, a UK based satellite company, welcomes the OFCOM consultation regarding *"Wireless Telegraphy Licence Exemption"*, and is pleased to provide comments, particularly regarding section 5 "satellite terminals" and the related question 4.

Inmarsat fully agrees that licence exemption or general authorisations are the most appropriate market access regimes for mobile satellite terminals.

However, we believe that the denomination "GAN" will lead to confusion and result in a very temporary solution. Therefore, Inmarsat would like put to forward some proposals for the draft Regulation aiming at ensuring that

1. the Regulation is neutral regarding brand names or commercial acronyms which are company specific
2. the imminent evolution of the technology and services is catered for, through a minim number or Regulations
3. the Regulation is in tune with the generic framework, foreseen both by the Wireless Telegraphy Act and by the Telecommunications Act.

We propose in particular

- ***to use in stead of GAN, "Inmarsat Satellite User Terminals, operating within the frequency bands 1525-1559 MHz space-to-earth and 1626.5-1660.5 earth-to-space"***
- ***to evolve from a case-by-case approach and reference to brand names of terminals towards exemption on the basis of compliance with relevant values regarding***

1/the particular assigned frequencies, 2/ the transmission power, 3/ the use of the equipment and 4/the compliance with agreed national or international standards

The attached contribution will elaborate further on each of these elements.

Yours sincerely

Ann Vandenbroucke
Manager Regulatory and Policy Issues.

Support for licence exemption

First of all, these regimes are attuned to the global nature of the service. They are the only feasible methods to facilitate true global circulation of terminals. Mobile satellite terminals are typically carried by users travelling continuously for short periods to a large range of countries, spread over the entire globe such as journalists, international aid workers and explorers. The requirement to obtain an authorisation in each of the visited countries creates serious inconveniences (long lead-times, language issues, practicalities related to fee payments etc) and users want to see then removed.

Secondly, given the high degree of harmonisation both in terms of frequency arrangements and standards, the risk for harmful interference is extremely minimal. Inmarsat welcomes the explicit recognition in section 5.13 of the terminal's operation in globally allocated mobile satellite bands, co-ordinated according to international procedures, as a leading factor to conclude that no undue interference will occur and where, by consequence, individual licensing would be a proportionate controlling measure. The qualification criteria for exemption, mentioned in section 2.7 and 2.8, strike the right balance between two crucial objectives for a regulator, i.e. avoidance of harmful interference on the one hand and reducing the regulatory burden for stakeholders on the other hand.

Thirdly, licence exemption fosters competition and maximises consumer benefit. Users travelling frequently and widely benefit from the possibility to select a global provider among a worldwide network of ISPs. They enjoy the best quality of service, application range and prices if they are do not need to swap on a country-by-country basis between a varying and limited number of providers licensed locally. Global competition has ensured that no upmark is charged for visiting a different country than the one where the terminal was activated or where the service provider is based.

The reply to the question 4 "*Do you agree with Ofcom's proposal to exempt users of Inmarsat GAN terminals from the need to possess a Wireless telegraphy Licence*" **is therefore a full "yes".**

The precedent in terms of licence exemption as proposed by OFCOM is particularly important for a UK based company with worldwide activities. Inmarsat would like to express appreciation for the clarity of the consultation document and the extensive motivation underlying its proposals. This will, without a doubt, be a prime source on which other administrations in the Commonwealth and beyond can rely when shaping workable frameworks of their own.

Taking advantage of this consultation, Inmarsat would like put to forward some proposals for the draft Regulation. These will aim to ensure that

4. the Regulation is neutral regarding brandnames or commercial acronyms which are company specific
5. the imminent evolution of the technology and services is catered for, through a minim number or Regulations
6. the Regulation is in tune with the generic framework, foreseen both by the Wireless Telegraphy Act and by the Telecommunications Act.

Neutrality

Issuing the regulation in a way that it avoids reference to specific brandnames or acronyms used by manufacturers or distributors could avoid a great deal of confusion. In particular the reference to “GAN” could create confusion as to which terminals and services are included. In annex, two examples are given. Since this includes information particular to the branding of terminals and details on manufacturers, we submit this annex on a confidential basis.

Drawing on the service neutral wording, found in ECC Decisions (02)08 and (02)11, we propose to use “Inmarsat Satellite User Terminals, operating within the frequency bands 1525-1559 MHz space-to-earth and 1626.5-1660.5 earth-to-space”.

Catering for the evolution of technology

Using a more service neutral wording would also allow to formulates a generic exemption for all terminals which operate over Inmarsat satellites.

Inmarsat believes that a generic exemption for terminals operating over Inmarsat satellites would be fully in line with the policy framework, set out in section 2.6. This framework details 4 factors influencing exemption namely 1/the particular assigned frequencies, 2/ the transmission power, 3/ the use of the equipment and 4/the compliance with agreed national or international standards.

As a way forward, we propose to stipulate in the Resolution for each of these four factors, the different relevant values or references applicable to Inmarsat terminals*.*

This approach has several advantages.

1. It would be more in line with the approach proposed for all other terminals mentioned in the consultation. None of the other types terminals included in the proposal for exemption require a new line in a new Regulation for each specific model as produced by individual manufacturers. Following those examples, specification of the frequency band, standard and eirp could suffice.

2. It would minimise the proliferation of Regulations and avoid discrepancies between terminals put on the market by different manufacturers at different moments in times. Because new Regulations are only published from time to time while manufacturers continuously put new terminals on the market, there is a real chance that, in anticipation of the next update of the Regulation, the most recent terminals face a period of legal uncertainty as to the need for individual licence. Where compliance with the qualification criteria is beyond doubt, there is no objective reason to treat terminals put on the market at a later date any differently from those already granted exemption. Ofcom seems to recognise in this in section 5.13 and 5.14. There, “*aligning the new products with the exemption status already afforded to other Inmarsat terminals*” is specified as one of the underlying reasons for the current proposals, together with the fact that the terminals “*use the same frequency spectrum as other Inmarsat terminals and are within the current technical parameters of existing licence-exempt Inmarsat terminals*”.

3. It would be in line with the agenda OFCOM is pursuing in its international activities within ECC. The two ECC decisions (ERC/DEC/(02)08 and (02)11 of 15 November 2002 referred to in the consultation have a generic nature. Furthermore, in PT FM44, OFCOM is taking a firm lead regarding the development of a generic approach to free circulation and licence exemption of MSS terminals as well in L-band as in SPCS bands.

Consistency with the broader framework

Besides the Wireless Telegraphy Act (WTA), also the Telecommunications Act (TA) is applicable to the use of satellite terminals and services. The latter foresees a notification regime, for which modalities have at the moment not been stipulated. It would be most appropriate if OFCOM could clarify whether exemption of licence under the WTA entails that it can be expected that no notification under the TA will be required.

In order to safeguard the benefit of free circulation and in the interest of avoiding conflict of law, proper co-ordination between both is required. It would seem confusing and contradictory if OFCOM would on the one hand realise benefits for free circulation of terminals through the exemption of Wireless Telegraphy Act licence and at the same time increase licensing burdens under the terms of the Telecommunications Act.

This risk has been discussed previously within the ECC. As a consequence, ERC decision (95)01 has been amended on 18 March 2005 in order to explicit that "free" circulation should be interpreted as circulation "without requiring any kind of national licence or any registration in the country visited".

ECC recognises with this amendment that any form of administrative overhead is unnecessary and unpractical - however light it might be and at whatever level it might be imposed; be it user, distributor or network operator. Exempting the user from licences while shifting obligations for example to the level of the service provider or network operator would have devastating effects on the dynamics and competition the characterises the MSS market. It is simply not feasible to clear requirements in every one of the 208 jurisdictions in the world, neither for the individual user, nor for each of the hundreds of distributors or the operators of distinct parts of the satellite network.

In the benefit of stakeholder understanding, we would like to request OFCOM to clarify that the justifications which are the basis for exemption of Wireless Telegraphy Act licence equally apply to exemption of notification under the Telecommunications Act.