

**SATELLITE NETWORK NOTIFICATION AND COORDINATION
REGULATIONS 2007**

BR 94/2007

TELECOMMUNICATIONS ACT 1986

1986 : 35

**SATELLITE NETWORK NOTIFICATION AND COORDINATION
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In exercise of the powers conferred on her by section 59(1) of the Telecommunications Act 1986, the Minister with responsibility for telecommunications makes the following regulations:

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Citation

1 These regulations may be cited as the Satellite Network Notification and Coordination Regulations 2007.

Interpretation

2 (1) In these regulations, unless the context otherwise requires —

“Act” means the Telecommunications Act 1986;

“administration” means any governmental department or service responsible for discharging the obligations undertaken in the Constitution of the ITU, the Convention of the ITU and the Radio Regulations;

“certificate of compliance” means a certificate issued by the Minister pursuant to regulation 6;

“certificate of competence to engage in coordination” means a certificate issued by the Minister pursuant to regulation 10;

“certificate of coordination” means a certificate issued by the Minister pursuant to regulation 12;

“coordination” means the procedure under article 9 of the Radio Regulations for enabling a number of radio systems to co-exist, including the procedure for obtaining the agreement of other administrations for that purpose;

“earth station” means a radio station located upon the surface of the earth, or within the major portion of the earth’s atmosphere, intended to carry on telecommunication service and capable of communicating with one or more satellites;

“ITU” means the International Telecommunication Union;

“launch licence” means —

(a) a licence under the Outer Space Act 1986, as extended to Bermuda by the Outer Space Act 1986 (Bermuda) Order 2006; or

(b) a licence for the launching or operation of a space object or the carrying on of other activities in outer space, issued in accordance with international agreements governing the activities of States in the exploration and use of outer space;

“maintain”, when used in the context of a space station, includes the operation of that space station, when that space station has been brought into use;

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“notification” means the procedure under article 11 of the Radio Regulations for the notification and recording of frequency assignments;

“Radio Regulations” means the Radio Regulations of the ITU;

“satellite” means a spacecraft and the space stations that it carries;

“satellite network” means a radio station located on a satellite and includes any co-operating earth stations;

“satellite network operator” means a body corporate incorporated under the laws of Bermuda, capable of establishing, launching or operating a satellite network;

“satellite network project” means the establishment or operation of a new satellite network or the modification of an existing satellite network;

“spacecraft” means a man-made vehicle which is intended to go beyond the major portion of the earth’s atmosphere; and

“space station” means a radio station located on a spacecraft.

(2) In these regulations, expressions shall bear the same meanings as in the Radio Regulations.

(3) In the event of an inconsistency between a definition in the Radio Regulations and a definition in this section, the meaning given to the defined term in the Radio Regulations shall prevail.

Purpose

3 These regulations prescribe the procedures for a satellite network operator to apply for a licence to establish and maintain a space station, in accordance with the procedures of the ITU for satellite network notification and coordination.

Requirement for licence

4 (1) No satellite network operator may establish or maintain a space station as part of a satellite network without a licence granted by the Minister as required by section 9 of the Act.

(2) A licence referred to in regulation 18 shall only permit the establishment and maintenance of the space station to which that licence refers, and, according to the circumstances of each satellite network, additional forms of authorisation are necessary for conducting activities in outer space, including the launch and operation of the satellite, and for the establishment, maintenance and operation of any co-operating earth stations.

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Submission of proposal for satellite network project

5 (1) A satellite network operator who intends to carry out a satellite network project shall first provide the Minister with any information that the Minister may require, including —

- (a) the full name, registration number and registered address of the satellite network operator;
- (b) full disclosure of the ownership and control of the satellite network operator, including the names and addresses of all directors;
- (c) a summary of previous satellite-related satellite network projects which the company has undertaken, and their outcome;
- (d) a summary of the experience of senior officers of the company in satellite-related satellite network projects, and the outcome of those projects;
- (e) evidence of financial ability, including cash reserves and credit facilities, to construct, launch and operate the satellite for at least three years after launch;
- (f) evidence of financial ability, including cash reserves and credit facilities, to meet the cost of insurance and associated indemnifications;
- (g) audited financial statements for the past three full fiscal years for the applicant and any relevant affiliates including parent companies and affiliated suppliers, and current interim financial statements for the same;
- (h) a detailed description of the services which the applicant intends to provide, including details of the market for such services and identification of competitive services, and a list of the rates and charges that the applicant proposes to charge the users of the service, and any terms and conditions under which the service will be provided;
- (i) a detailed five-year business plan identifying the proposed investment, revenues, expenditures and detailed financial forecasts, and describing any underlying assumptions;
- (j) a brief description of how the establishment and operation of the proposed satellite network will serve the interests of the people of Bermuda;
- (k) a complete technical description of the proposed satellite network, according to the requirements of Appendix 4 of

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the Radio Regulations and in a format compatible with ITU software requirements, and details of the location and operation of the primary Satellite Control Centre which performs telemetry, tracking and control of satellites;

- (l) an undertaking to pay the ITU's processing charge and to reimburse the Government for any other costs incurred by the Government arising from these procedures;
- (m) the timetable for the progress and completion of the project; and
- (n) such additional information as may be needed to meet the requirements published by the appropriate authorities in the United Kingdom.

(2) The satellite network operator shall also submit documents of proof —

- (a) that it is a body corporate incorporated in Bermuda and that its executive satellite operations officer is a director of that body corporate;
- (b) that it has the necessary technical, financial and legal capabilities to carry out the proposed satellite network project in conformity with the project timetable; and
- (c) that it has paid the fee for the proposal that is specified in the Government Fees Regulations 1976.

Issuance of certificate of compliance

6 (1) After reviewing the information submitted by a satellite network operator under regulation 5, the Minister may issue to that operator a certificate to show that the operator has met the requirements of that regulation, if the Minister is satisfied that —

- (a) the operator is competent and capable of carrying out the proposed satellite network project; and
- (b) the project is in the interests of the people of Bermuda.

(2) The certificate of compliance shall be subject to any terms and conditions that the Minister considers necessary in order to confirm that the requirements under regulation 5 have been met.

Submission of proposal to appropriate authorities

7 After issuing a certificate to a satellite network operator under regulation 6, the Minister shall submit a copy of the certificate and of the information submitted by the operator under regulation 5 to the appropriate authorities in the United Kingdom and shall ask those

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authorities to submit the information provided under regulation 5(1)(k) to the ITU.

Submission of Minister's proposal

8 (1) The Minister may submit a proposal for a satellite network project for filing with the ITU, including a proposal respecting a satellite network allotted to Bermuda by the ITU, whether or not a satellite network operator has first applied for a certificate of compliance to carry out the satellite network project.

(2) When preparing such a proposal for submission to the appropriate authorities in the United Kingdom, the Minister shall have due regard to the requirements of regulation 5, and such information as may be required by the appropriate authorities in the United Kingdom.

Requirement for certificate of competence to engage in coordination

9 No person may participate in the coordination of a satellite network, unless that person has first been issued a certificate under regulation 10.

Issuance of certificate of competence to engage in coordination

10 (1) On application from a satellite network operator, the Minister may issue to that satellite network operator a certificate to confirm the competence of that satellite network operator to participate in coordination negotiations if the Minister is satisfied —

- (a) that the operator is competent and capable of fully discharging all aspects associated with international coordination of satellite networks in compliance with ITU procedures; and
- (b) that coordination can proceed in accordance with the procedures in the Radio Regulations.

(2) A certificate issued under this regulation shall be subject to such terms and conditions as the Minister may specify in it, including any terms and conditions required by the policies and procedures of the appropriate authorities of the United Kingdom as are in force at the time of issue.

(3) A satellite network operator who participates in the coordination of a satellite network under a certificate issued under this regulation shall provide to the Minister without delay copies of all correspondence relevant to the coordination process and the Minister shall submit such correspondence to the appropriate authorities in the United Kingdom.

(4) Nothing in this regulation shall confer upon any satellite network operator the right to conclude any agreement which is, or may be construed as being, binding upon any administration under the provisions of the Radio Regulations.

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(5) For greater certainty, paragraph (4) does not preclude the conclusion of an agreement referred to in that paragraph between the appropriate authorities of the United Kingdom and one or more other administrations, following negotiations to which this regulation applies.

(6) Nothing in this regulation shall hinder or prevent informal negotiation and discussion between satellite network operators during the preparation of satellite network proposals, when preparing for negotiations to which this regulation applies, or within any other reasonable context.

Minister's attendance at coordination meetings

11 (1) The Minister or his representatives may, at the request of the satellite network operator or of another administration, or if the Minister thinks it necessary, attend any coordination meeting and the costs of his attendance shall be paid by the satellite network operator.

(2) Nothing in these regulations shall in any way prejudice the rights of the appropriate authorities in the United Kingdom to attend coordination meetings at their discretion, and the costs of such attendance shall be borne by the satellite network operator in accordance with the policies and procedures of those authorities as are in force at the time.

Issuance certificate of coordination

12 (1) The Minister may issue a certificate to a satellite network operator, which certificate shall describe the coordination status of that operator's satellite network.

(2) A certificate issued under paragraph (1) shall include such details of the coordination agreement or agreements as may be pertinent to –

- (a) that satellite network operator;
- (b) the satellite network for which coordination has been agreed;
- (c) any other satellite networks with which such coordination has been agreed; and
- (d) any other satellite networks with which coordination has not yet been agreed, where they are known.

(3) A satellite network operator who participates in coordination under a certificate issued under regulation 10 shall notify the Minister in writing when coordination with those satellite networks identified as having higher priority is complete and the Minister, if he is satisfied that the coordination has been successfully completed, may indicate this fact on the certificate of coordination.

(4) The issuance of a certificate under this regulation shall not be a precondition for the issuance of a licence to which regulation 18

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refers, but if the Minister issues such a licence and the satellite network to which that licence refers has not yet been fully coordinated with those satellite networks identified as having higher priority, the licence shall indicate that fact.

Assignment and transfer of satellite network projects

13 (1) The Minister may assign a satellite network project to a satellite network operator, or permit the transfer of a satellite network project from one satellite network operator to another, in accordance with the procedures prescribed in regulation 14.

(2) The Minister may enter negotiations with a satellite network operator to seek the continuation of a satellite network project, including the transfer of that project to the Government of Bermuda, if —

(a) the satellite network operator decides to discontinue the satellite network project and requests that the information provided to the ITU be withdrawn; and

(b) the Minister decides that the continuation of that satellite network project is in the interest of the people of Bermuda.

Procedure for assignments or transfers

14 (1) The Minister may invite applications from satellite network operators for the assignment or the transfer of a satellite network project to the operator.

(2) If the satellite network operator whose satellite network project is subject to transfer enters into an agreement with another satellite network operator for the transfer of the satellite network project, the operator whose satellite network project is the subject of the agreement shall submit the agreement to the Minister for approval and the Minister may invite an application for transfer solely from the satellite network operator named in the agreement and the agreement shall be regarded as a provisional agreement until approval is granted.

(3) An applicant for an assignment or transfer shall apply for the assignment or transfer of the satellite network project to the applicant and shall include in the application the following information —

(a) the information referred to in regulation 5; and

(b) in the case of a transfer —

(i) proposals for compensating the former satellite network operator for his rights in the project; and

(ii) proposals to show how the applicant will assume and fulfil the former satellite network operator's obligations under these regulations.

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(4) The Minister may only consider applications from satellite network operators whom the Minister determines are competent and capable of carrying out the satellite network project according to the agreed timetable.

(5) The Minister shall designate the successful applicant as the satellite network operator.

Periodic review of satellite network projects

15 (1) The Minister may, at such times and intervals as he may determine or on request by the satellite network operator, review a satellite network project for which certificates have been issued under regulation 6, 10 or 12.

(2) The satellite network operator shall provide the Minister with any information that he may require for the purposes of the review, including —

- (a) a detailed satellite network project plan with key milestones clearly identified and arranged in chronological date order;
- (b) information on the status of the following —
 - (i) business plan;
 - (ii) spacecraft request for proposal;
 - (iii) spacecraft contractor;
 - (iv) progress and monitoring plan showing key milestones;
 - (v) spacecraft contract;
 - (vi) launch services contract;
 - (vii) launch indemnity contract obtained;
 - (viii) spacecraft type and variant ordered;
 - (ix) interference analyses;
 - (x) spacecraft construction;
 - (xi) spacecraft launch; and
 - (xii) spacecraft in orbit tests;
- (c) a detailed statement of the satellite network project design, build and launch costs and its lifetime operational costs;
- (d) evidence that the satellite network operator has —

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- (i) the financial ability to meet the costs of the satellite network project, including the costs of related insurances and indemnifications; and
 - (ii) the financial resources to operate the system for at least three years, together with either a statement showing the applicant's current assets and operating income or a financial plan with the appropriate market research, showing the intended sources of funding and estimated revenues consistent with the business plan; and
- (e) any additional information that may be required by the appropriate authorities in the United Kingdom.
- (3) The satellite network operator shall demonstrate to the satisfaction of the Minister that it is making best endeavours to ensure that the satellite network project progresses towards a successful commercial launch and operation according to the timetable agreed with the Minister, and in particular —
- (a) that co-ordination of the satellite network is being pursued through the procedures determined by the Radio Regulations and that meetings between the satellite network operator and other administrations and satellite network operators are being held according to the timetable;
 - (b) that the procurement of the satellite for the proposed satellite network and its construction and pre-flight testing are progressing according to the timetable;
 - (c) that the procurement of the launch of the satellite is progressing according to the timetable; and
 - (d) that a launch licence and associated insurances and indemnifications have been obtained, in accordance with the timetable.
- (4) The periodic review of the satellite network project shall continue after bringing that satellite network into use, for the duration of the life of the satellite network, and periodic review meetings shall examine such matters as —
- (a) the continuing ability of the satellite network operator to ensure the correct operation of the satellite network;
 - (b) the operational status of the satellite network, and any plans to alter that status or for decommissioning of the satellite network;
 - (c) the coordination status of the satellite network;

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- (d) requests from other satellite network operators to coordinate their satellite network proposals with the satellite network;
- (e) the arrangements by which the satellite network operator undertakes to reimburse the Minister for costs incurred by him, or by his staff, in performing functions arising from duties under these regulations; and
- (f) any other matter that the Minister or the satellite network operator may believe to be appropriate.

Power to give directions

16 (1) The Minister may give such directions to a satellite network operator as he thinks fit in the event of —

- (a) delays to the progress of the satellite network project according to the agreed timetable;
- (b) the inability of the satellite network operator to establish the proposed satellite network;
- (c) the inability of the satellite network operator to continue to operate the proposed satellite network;
- (d) the inability of the satellite network operator to modify the satellite network;
- (e) any other incapacity of the satellite network operator; or
- (f) any anomaly or catastrophe caused or suffered by the satellite network at any stage of the satellite network project.

(2) The Minister may give a direction to a satellite network operator so as to give effect to a request made by the appropriate authorities in the United Kingdom.

(3) The Minister may, after consultation with the satellite network operator, revise the satellite network project timetable at any time that it is appropriate to do so, in the Minister's opinion.

Revocation of certificates

17 (1) The Minister has just cause under section 13(4) of the Act for revoking a certificate issued under regulation 6, 10 or 12 from a satellite network operator if the satellite network operator —

- (a) notifies the Minister that he does not intend to proceed with the satellite network project;
- (b) is unable to proceed with the project for any reason;
- (c) fails to comply with ITU coordination procedures; or

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(d) fails to comply with a direction issued by the Minister under regulation 16(1) or (2).

(2) If the Minister has issued a licence under section 13 of the Act and subsequently has cause to revoke a certificate issued under regulation 6, 10 or 12, the Minister may take the latter revocation into account when determining whether the terms, conditions and limitations of the licence are being complied with.

Issuance of licence

18 (1) Upon being notified by the satellite network operator that the satellite network for which certificates have been issued under regulations 6, 8 and 10 is to be brought into use, the Minister may issue a licence to the satellite network operator under section 13 of the Act for the operation of the space station in that satellite network.

(2) The terms and conditions of the licence shall incorporate the certificates issued under regulations 6, 10 and 12 and such other terms as the Minister may specify.

(3) The effective date of commencement of the licence shall be the date of bringing the satellite network into use.

(4) In the event that the satellite network is to be brought into use before coordination under the Radio Regulations has been completed, then this fact shall be reflected in the terms of the licence, and the issuance of the licence shall confer no additional degree of protection or recognition other than that afforded by the provisions of the Radio Regulations.

(5) A licence issued under the circumstances described in paragraph (4) shall include the condition that the satellite network operator, in operating that space station, shall not cause harmful interference to, or claim protection against harmful interference caused by, any radio station which is operated in accordance with the provisions of the Constitution of the ITU, the Convention of the ITU and the Radio Regulations.

Offences and penalties

19 (1) Any person who contravenes regulation 4 or 9 or a direction issued by the Minister under Regulation 16 commits an offence and is liable on summary conviction to a fine in the maximum amount permitted under the Act or to imprisonment for a term of twelve months, or to both.

(2) Where a corporation has committed an offence under paragraph (1), any director or officer of the corporation who is found to have participated or acquiesced in the commission of the offence is guilty of a separate offence and is liable on summary conviction to a fine in the maximum amount permitted under the Act or to imprisonment for a term of twelve months, or to both.

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(3) When an offence is committed under paragraph (1), then the Minister may —

- (a) seek the withdrawal of the information provided to the ITU under regulation 5, in accordance with the procedures of the appropriate authorities in the United Kingdom; or
- (b) transfer the satellite network project to another satellite network operator in accordance with the procedure described in regulation 14.

Made this 14th day of November, 2007

Minister of the Environment, Telecommunications and E-Commerce