



Regulatory Review

U.K. SATELLITE FILINGS

By Gerry Oberst

The U.K. Office of Communications, known as Ofcom, conducted a speedy consultation in February and March this year to



examine its procedures for submitting satellite filings to the International Telecommunication Union (ITU). Few countries have publicly discussed these procedures, and the Ofcom consultation drew much attention from satellite operators seeking to ensure that procedures protect their ability to file efficiently through the United Kingdom.

Current United Kingdom procedures for ITU filings date back to February 2000, when Ofcom's predecessor published a short information paper on satellite filing requirements. Ofcom's new proceeding sought to review the process and institute necessary updates. From start to finish, the Ofcom proceeding lasted just about six weeks, and was completed by an Ofcom statement in late March.

After changes to U.K. law in 2003, Ofcom holds responsibility for all aspects of communications regulation, including satellite filings that previously had been managed by another U.K. agency. Ofcom has set a torrid pace of public consultations, having published more than 20 in the first quarter of 2005 alone, more than the same period in 2004, when it initiated almost 100 throughout the course of the entire year.

Few of these consultations deal with satellite matters, but the recent inquiry on ITU filing procedures went to the heart of Ofcom's relation with satellite operators, which led 16 parties to submit comments in the proceeding.

Ofcom files notifications to the ITU and manages the resulting coordination of satel-

lite networks for those satellites registered in the United Kingdom, as well as those from British Overseas Territories (Gibraltar, for example), the Channel Islands and the Isle of Man. Ofcom reported that the United Kingdom is currently responsible for 145 active satellite network filings, including networks operating in the fixed satellite, mobile satellite and broadcasting satellite services.

The first question Ofcom asked was whether the agency should publish details of applications so that others could indicate their interest, with Ofcom selecting which to submit to the ITU. The U.K. agency currently takes a "first-come, first-served" approach for satellite filings, but sought comments on whether a comparative procedure would be the better system. As part of this question, Ofcom pointed to the FCC competitive bidding approach for BSS applications.

This suggestion was somewhat off the mark, because the FCC stringently limits its comparative procedures for satellite filings, having largely abandoned this approach in 2003. At that time, the FCC adopted the general practice of entitling applications to comparative consideration only if they are filed "at the same millisecond."

After decades of experience with comparative filing rounds, the FCC noted there are many benefits to a "first-come, first-served" procedure and said it would adopt the procedure "for as many types of satellite licenses as possible," in order to act on applications more quickly and also to foster more efficient spectrum use. The FCC concluded that any marginal benefits from comparative procedures are outweighed by the additional months or years that those procedures delay service to the public.

Commenting parties in Ofcom's proceeding made the same point. They also argued that making satellite applications public and delaying the ITU filings until a "winner" is chosen would permit applicants in other countries to

file for the same positions through their own administrations and obtain filing priorities under the ITU procedures.

For the most part, Ofcom agreed with these arguments. In its March 24 statement, the agency decided not to publish information relating to filings for unplanned satellite assignments. It concluded that in the planned bands, those that are allotted under ITU plans to specific countries in advance, it could apply a competitive approach and invite expressions of interest for orbital locations.

Ofcom agreed it would continue the practice of submitting conflicting filings to the ITU, retain the ability to reassign filings if the original applicant is not proceeding, and seek to replace the existing guidance notes on satellite filings.

In its original consultation, Ofcom referred to practices in the United States and Australia, asking if those could be models for revised U.K. procedures. Unlike those countries, however, Ofcom does not technically license the satellite facility. These foreign models apparently dropped by the wayside in the proceeding, as Ofcom did not mention them again in the March statement.

The penultimate question in the consultation was how Ofcom could recover the costs it incurs in providing services to satellite operators. Operators were concerned that charges only recover Ofcom's administrative costs rather than raise revenues, and the agency said it would consult further on fees.

Ofcom's open and detailed consultation on ITU filing is a welcome sign of an agency seeking efficient processing approaches. It was also a fast action, even if some issues are left for later proceedings. ♦

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