

Federal Communications
Commission
Commission Secretary
Marlene H Dortch
455 12th Street SW
TWB-B204
Washington D.C. 20554

Direct Line: + 44 (0)20 7981 3119
Direct Fax: + 44 (0)20 7981 3208
E mail: Pat.strachan@ofcom.org.uk

Our Ref:
Your Ref: SPB-196

Date: 21 January 2003

Received
JAN 28 2004
Policy Branch
International Bureau

Dear Madam

Reduction in Orbital Spacing between US Direct Broadcast Satellites

Reference Report No SPB-196

In its Public Notice Reference DA 03-3903, released on the 16th December 2003, the Federal Communications Commission ("FCC") requested comments on proposals to permit reduced orbital spacing between US Direct Broadcast Satellites ("DBS"). One of the proposals referred to in the document was the Petition for Declaratory Ruling of SES AMERICOM to provide DBS services into the United States from 105.5°W through an International Telecommunications Union ("ITU") filing made by the United Kingdom on behalf of Gibraltar, an Overseas Territory of the United Kingdom.

The Office of Communications ("Ofcom") does not propose to address the specific merits of the SES AMERICOM Petition, but will address the underlying ITU processes that relate to the 105.5°W orbital location.

The ITU process is particularly relevant to the Petition for Rulemaking submitted by DIRECTV which Ofcom believes is contrary to the principles enshrined in the ITU Radio Regulations. Therefore Ofcom is of the view that the FCC should dismiss the DIRECTV Petition as inappropriate.

In ITU Region 2 (the Americas), the 12 GHz broadcasting-satellite services ("BSS") band was planned in 1983. This Region 2 Plan, which is contained in Appendices 30 and 30A of the ITU Radio Regulations, was not based on any set spacing between planned positions, but did result in 9° spacing between some of the positions assigned to the United States. This Plan included BSS channel assignments not only to the United States, but to all countries in the Region including the United Kingdom Overseas Territories¹. To give a measure of flexibility and to allow for future

¹ The Cayman Islands, Bermuda, Falkland Islands, and British Virgin Islands all are in ITU Region 2.

development, Appendices 30/30A to the ITU Radio Regulations detail a process for changing the BSS Plans to modify existing Plan assignments or to include new orbital assignments.

Included in the Radio Regulations process is a methodology which triggers coordination with those countries that are potentially affected by the proposed modification to the Plan. The Radio Regulations require that the country requesting the modification of the plan, seeks and gains agreement of the potentially affected countries as a pre-requisite to acceptance of the modification into the Plan. The protection requirements of affected countries and the country requesting the modification will vary depending on operational requirements, and in Ofcom's view do not lend themselves to a "one size fits all" technical solution.

International coordination under ITU procedures recognizes the unique circumstances that can exist which require creativity, good faith negotiation and compromise to reach agreements that are acceptable to all parties. The DIRECTV Proposal for Rulemaking suggests the FCC mandate a single solution for reduced orbital spacing. This not only is not needed, but is inappropriate to apply to the filings of other countries. Instead, OFCOM advocates the continued pursuit of coordination through the ITU processes as defined in the Radio Regulations.

As described above, the ITU Radio Regulations lay out flexible procedures to determine, through coordination, the compatibility of a modification or proposed new entry to the BSS Plan with the existing entries and pending modifications to the current Plan.

This flexibility is essential in order to accommodate new and innovative approaches which are required for the efficient provision of a wide range of customer focused services in today's fast changing telecommunications world.

Hopefully the above clearly lays out Ofcom's views but should you require further information or clarification please get in touch.

Yours sincerely

Patrick Strachan

Head, Satellite Unit

Riverside House
2a Southwark Bridge Road
London SE1 9HA

Telephone +44 (0)20 7961 3000
Facsimile +44 (0)20 7961 3333

www.ofcom.org.uk