



**Response to Consultation and Decision on the
Licensing of Satellite Earth Stations and related
Modification of a Telecommunications Act
Licence**

20 November 2015

Contents

Executive Summary.....	3
1. Introduction.....	4
2. Legal and Regulatory Background.....	5
Legislative background	5
UK legislation relevant to spectrum in the Isle of Man.....	5
Regulatory framework for the licensing of services in the Isle of Man.....	6
3. Award Process for Access to Spectrum for Earth Stations and Telecoms Licence	11
Details of proposed licence award process.....	13
Licence fees.....	16
4. Commission Decisions.....	20
Annex 1: DRAFT Proposed Licence Variation.....	21
Annex 2: DRAFT Licence to Provide Earth station Services	22

Executive Summary

This response to consultation is concerned with the licensing of satellite earth stations on the Isle of Man. The Communications Commission (Commission) published a consultation setting out its proposals on 2 September 2015 (September 2015 Consultation), and received five responses, from ManSat Ltd. (ManSat), OneWeb, Ltd. (OneWeb), SES Satellite Leasing Limited (SES), Sure (Isle of Man) Limited (Sure), and a respondent that wishes to remain anonymous. The Commission thanks the respondents for their comments.

Respondents expressed appreciation that the Commission is developing a framework for the operation of Earth stations on the Isle of Man, and noted the economic benefits that could flow from such activity. The respondents also provided valuable feedback on several aspects of the licensing framework that will aid the Commission in moving forward.

Following consideration of the responses received and related discussions with prospective operators and other stakeholders, the Commission has made the following decisions:

1. Operators holding a full Telecommunications Act 1984 (TA) licence and other licensed operators will require a new Part in their licence. New entrants will require a TA licence that includes the conditions of the new Part. An earth station licence for a new entrant will have an initial term of 15 years.
2. Licence applications for earth stations will be processed in the order submitted. A spectrum award recommendation for an earth station will be made, with no exclusivity rights, subject to satisfying UK Office of Communications (Ofcom) requirements. Earth station services must be launched within 36 months of a relevant licence award or modification.
3. A simplified licensing process will be implemented for spectrum to be used by earth stations and related modification or issuance of a TA licence. The process will comprise three stages, i.e. an Application Stage, Evaluation Stage and Award Stage.
4. The Commission will levy a one-time £3,000 earth station licence fee, as well as an annual TA licence fee based on 0.5% of relevant revenue generated by licensed activities on-Island. An annual fee of £500 is payable if revenue from licensed activities does not exceed £100,000.

1. Introduction

- 1.1 A satellite earth station is a type of radio equipment used to communicate with a space station (satellite) from the earth's surface. The Commission has received interest in operating Permanent Earth Stations on the Island, which Ofcom defines as follows:

*A Permanent Earth Station (PES) is a satellite earth station operating from a permanent, specified location to a satellite, normally one which is in geostationary orbit. A PES is typically used to provide telephony and data backhaul, broadcast feeder links, private corporate networks or satellite telecommand and control.*¹

- 1.2 This response to consultation is concerned with the licensing of satellite earth stations on the Isle of Man, and builds upon the proposals set out in the September 2015 Consultation. The Commission received five responses to the September 2015 Consultation, from ManSat, OneWeb, SES, Sure, and a respondent that wishes to remain anonymous. Non-confidential versions of these responses will be available on the Commission's website.
- 1.3 All comments made by respondents have been taken into account in this response to consultation. Respondents' views are summarised under the heading of each of the Commission's proposals, and this is followed by the Commission's reasoning and conclusion.

¹ <http://licensing.ofcom.org.uk/radiocommunication-licences/satellite-earth/earth-stations/pes/>

2. Legal and Regulatory Background

Legislative background

- 2.1 The Commission is responsible for issuing licences for telecommunications and broadcasting services on the Island. Its powers include:
- specifying the nature of the telecommunications systems and services which operators are permitted to operate and provide under the licence;² and
 - setting conditions on such operation and provision.³
- 2.2 Spectrum management is the responsibility of Ofcom. It licenses and regulates the use of radio spectrum in the Island, under the Wireless Telegraphy Act 2006 of Parliament (WTA), which is extended to the Isle of Man, with Tynwald's consent, by Order in Council. The Commission works closely with Ofcom to ensure that Isle of Man Government policies are taken into account in licensing decisions.
- 2.3 The legislative basis for licensing Earth stations in the Isle of Man is provided by the Telecommunications Act 1984 of Tynwald. This consultation is undertaken as part of the process leading to such licensing.

UK legislation relevant to spectrum in the Isle of Man

- 2.4 The use of spectrum in the Isle of Man is governed by UK legislation that has been extended to the Isle of Man, as well as by international agreements between the UK and other countries on the use to which various bands of radio spectrum can be put and the avoidance of interference across borders. The licensing of spectrum, in the UK and in the Isle of Man, is carried out by Ofcom, by virtue of the powers given to it by the WTA and the Communications Act 2003.
- 2.5 Ofcom's principal and secondary duties are in Section 3 of the Communications Act 2003 ('General duties of Ofcom'), which provides that:
- (1) *It shall be the principal duty of OFCOM, in carrying out their functions—*
- (a) *to further the interests of citizens in relation to communications matters;*
and
- (b) *to further the interests of consumers in relevant markets, where appropriate by promoting competition.*
- (2) *The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following—*
- (a) *the optimal use for wireless telegraphy of the electro-magnetic spectrum;*
(...)
- 2.6 Moreover, Section 3 of the WTA ('Duties of OFCOM when carrying out functions') further specifies Ofcom's duties as follows:

² See s.5(1) and s.5(4)(b) Telecommunications Act 1984.

³ See s.5(5) Telecommunications Act 1984.

- (1) *In carrying out their radio spectrum functions, OFCOM must have regard, in particular, to—*
 - (a) *the extent to which the electromagnetic spectrum is available for use, or further use, for wireless telegraphy;*
 - (b) *the demand for use of the spectrum for wireless telegraphy; and*
 - (c) *the demand that is likely to arise in future for the use of the spectrum for wireless telegraphy.*
- (2) *In carrying out those functions, they must also have regard, in particular, to the desirability of promoting—*
 - (a) *the efficient management and use of the part of the electromagnetic spectrum available for wireless telegraphy;*
 - (b) *the economic and other benefits that may arise from the use of wireless telegraphy;*
 - (c) *the development of innovative services; and*
 - (d) *competition in the provision of electronic communications services.*

2.7 For the purposes of the spectrum relevant to this consultation, the respective roles of the Commission and Ofcom in coordinating the award of spectrum licences in the Isle of Man are as follows:

- the Commission ascertains the level and nature of demand for spectrum in the specified bands based in part on information provided by Ofcom. Eventually, when the assessment process for a TA licence or modification of an existing licence is completed, it makes a recommendation to Ofcom in relation to the issuing of licences under the WTA to Isle of Man operators, specifying the spectrum bands and the allocations within these bands that should be included within such licences; and
- Ofcom issues licences for spectrum use under the WTA where it is satisfied the Commission's recommendation is consistent with its own statutory duties.

Regulatory framework for the licensing of services in the Isle of Man

Proposal 1: Operators holding a full TA licence and other licensed operators may require a new Part in their licence. New entrants will require a TA licence that includes the conditions of the new Part. Do you agree with this proposal?

Summary of September 2015 Consultation proposals

- 2.8 In the September 2015 Consultation, the Commission suggested that operators in the Isle of Man who hold, or wish to hold, spectrum assignments for use by Earth stations need both a WTA licence issued by Ofcom which will, with the Commission's recommendation, allow the use of spectrum in the specified bands for Earth stations on the Island, and a TA licence issued in the Isle of Man which allows the provision of telecommunications services in the Isle of Man.
- 2.9 The Commission expressed the view that full TA licensees (Manx Telecom, Sure and Wi-Manx) are already licensed to provide 'telecommunications systems of every

description within the Island,' but that further specification of services may require a modification of their TA licence. Other TA licensees may also require a modification which would involve attaching a new Part to the current TA licences. The new Part would contain licence conditions in relation to Earth Station service provision and would formally link the TA licence to the WTA licence issued by Ofcom. The Commission's proposals for varying existing operators' licences and the text of a proposed licence variation were set out.

- 2.10 For a new market entrant, the Commission would issue an appropriate licence under the TA, which would license the operator to provide telecommunications services on the Island. This may be a licence limited to providing earth station services or such other services as may be specified.

Summary of responses

- 2.11 Respondents generally suggested that the licensing process should not impose undue administrative or financial burdens on operators, as this could discourage the operation of earth stations and related economic activity on the Island. There was a suggestion that the licensing process should minimize any requirements beyond those already imposed by Ofcom. Some respondents questioned why a TA licence is required to operate an earth station on the Isle of Man, as the use of radio frequencies for earth stations is covered by the WTA in the UK and by the Authorisation Directive in the EU. It was noted that under the WTA, recognizing the need to avoid harmful interference, Ofcom issues a licence for earth station spectrum use.
- 2.12 An argument was made that an earth station serves as a physical connection between the satellite ground network and a satellite, and does not directly affect consumers, so the only concern is frequency usage/coordination. A telecoms operator making use of satellites provided by an earth station operator to provide services directly to clients/consumers should require a TA licence, and the need to license an earth station could depend on how the earth station is used. Respondents suggested that the anticipated uses for earth stations on the Island would be telemetry, tracking and control (TT&C), and data collection and internet backhaul for off-Island customers. There is a small possibility that earth stations, in the future, would be used to provide services to on-Island customers.
- 2.13 One respondent supported the approach that all operators, including those holding a full TA licence, should require a new part in their licence if they are to operate earth stations. This will ensure a level playing field and consistent licence conditions for all earth station operators.
- 2.14 Another respondent agreed that a new entrant operating an earth station would need a licence specific to those services (as opposed to a wider ranging licence). However, full TA licence holders are already licensed to provide telecommunications systems of every description within the Island (which includes earth stations), and the licence explicitly allows the connection of earth orbiting apparatus to their network. Full TA licences have in the past been modified to allow for new conditions pertaining to spectrum awards and related services. The extent to which a full TA licence holder

may require licence modification should depend on whether there are specific obligations attached to operation of an earth station. As there are no coverage or 'use or lose' provisions, in the respondent's view, a licence modification does not seem needed for a full TA licence holder.

- 2.15 Two respondents pointed out that the operational life of earth stations can be 15 years or more, and were concerned that the initial 5-year term before the theoretical possibility of revocation would not give enough certainty. Earth stations also require significant infrastructure investment. An initial term of 15 years was suggested, and the possibility was also raised of renewing the licence for equivalent 15-year terms.

Commission's analysis

- 2.16 The Island is not a member of the EU, and the Authorisation Directive has not been extended to the Isle of Man. Spectrum use on the Island is licensed under the WTA, but the operation of a telecommunication system is licensed under the TA.
- 2.17 Section 2(1) of the TA defines a telecommunication system as 'a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of — (a) speech, music and other sounds; (b) visual images; (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or (d) signals serving for the actuation or control of machinery or apparatus.'⁴ Section 2(2) further specifies that telecommunication apparatus on the Island for use in transmitting the things defined in section 2(1) shall also be regarded as a telecommunication system.⁵
- 2.18 In accordance with Section 2 of the TA, an earth station on the Island, even if not directly providing services to consumers or the public, falls under the definition of a telecommunication system or telecommunication apparatus (and therefore a telecommunication system). The earth station uses mentioned by respondents, such as TT&C and Internet backhaul, would fall under Section 2(1)(d) and 2(1)(c) respectively. Section 3(1) of the TA states that a licence granted under Section 5 is required to run a telecommunication system within the Island, while Section 5(1) of the TA states that such licence may be granted by the Commission.⁶
- 2.19 Section 4 of the TA explains the situations where a telecommunication system is exempted from the licensing requirement under Section 3.⁷ The potentially applicable exemptions from the licensing requirement under Section 4 hinge on not being connected to another system, while sections 2(4) through 2(7) indicate that 'connection' refers to transmitting or receiving messages from another telecommunications system.⁸

⁴ See s.2(1) of Telecommunications Act 1984.

⁵ See s.2(2) of Telecommunications Act 1984.

⁶ See s.3(1) and s.5(1) of Telecommunications Act 1984.

⁷ See s.4 of Telecommunications Act 1984.

⁸ See s.2(4) through s.2(7) of Telecommunications Act 1984.

2.20 Under Sections 4(3) and 4(4), the following situations allow an exemption from licensing:⁹

(3) *In the case of a business carried on by a person, section 3(1) is not contravened by the running, for the purposes of that business, of a system which is not connected to another system and with respect to which the conditions specified in subsection (4) are satisfied.*

(4) *The said conditions are —*

(a) *that no person except the person carrying on the business is concerned in the control of the apparatus comprised in the system;*

(b) *that nothing falling within section 2(1)(a) to (d) is conveyed by the system by way of rendering a service to another;*

(c) *that, in so far as sounds or visual images are conveyed by the system, they are not conveyed for the purpose of their being heard or seen by persons other than the person carrying on the business or any employees of his engaged in the conduct thereof;*

(d) *that in so far as such signals as are mentioned in section 2(1)(c) are conveyed by the system, they are not conveyed for the purpose of imparting matter otherwise than to the person carrying on the business, any employees of his engaged in the conduct thereof or things used in the course of the business and controlled by him; and*

(e) *that, in so far as such signals as are mentioned in section 2(1)(d) are conveyed by the system, they are not conveyed for the purpose of actuating or controlling machinery or apparatus used otherwise than in the course of the business.*

2.21 This exemption could apply if the earth station and satellite are considered as part of the same system, and that system is not connected to any other system. In the case of earth station usage for data backhaul, it seems likely that connection to another system is required in order for the earth station to receive and/or transmit the data. Also, the conditions in Sections 4(4)(b) through 4(4)(d) might not be satisfied.

2.22 However, if the satellite and earth station are part of the same system, and the earth station is used only for TT&C, it could be argued that the system will not be connected to another system. In that case, exemption 4(3) could possibly be applied if the conditions in Sections 4(4)(a) through 4(4)(e) are satisfied. Thus, an earth station used purely for TT&C and not connected to another system could potentially be considered exempt from the requirement to be licensed under the exemption in Section 4(3).

2.23 The Commission considers that a pragmatic approach which also provides certainty to operators is to license earth stations for TT&C as well as other uses. This avoids the need for an operator to demonstrate that an earth station fulfils the licence exemption requirement, and the need for licence issuance or modification if an earth station is used for purposes other than TT&C.

⁹ See s.4(3) and s.4(4) of Telecommunications Act 1984.

- 2.24 The Commission also shares respondents' sentiment that the licensing process should be as lean as possible. The fact that operation of earth stations is not expected to directly impact on consumers will allow for a 'lighter touch' licensing approach. Therefore, all earth stations will require a TA licence, but the obligations in connection with applying for and holding a licence will be relatively light.
- 2.25 In the past, full TA licences have been modified to allow for the addition of specific obligations and fees with respect to a new type of service (e.g. 4G). As discussed in section 3 of this paper, the Commission has determined that a service launch obligation and earth station licence fee are required for earth station services. This will necessitate the modification of a full TA licence if the licence holder wishes to offer such services.
- 2.26 Operators have stated that the operational life of earth stations is 15 years or more and that significant capital investment is required. As a result, the Commission has decided that an earth station licence issued to a new entrant will have an initial term of 15 years rather than the 5 years originally proposed in the consultation. Following the initial 15-year term, the licence will continue in perpetuity, subject to revocation on 1 year's written notice.

Commission's decision

Decision 1: Operators holding a full TA licence and other licensed operators will require a new Part in their licence. New entrants will require a TA licence that includes the conditions of the new Part. An earth station licence for a new entrant will have an initial term of 15 years.

3. Award Process for Access to Spectrum for Earth Stations and Telecommunications Licence

Proposal 2: Spectrum for earth stations will be awarded on a first-come-first-served basis, and an obligation to launch a service within a specified amount of time will not be imposed. Do you agree with this proposal?

Summary of September 2015 Consultation proposals

- 3.1 In deciding on an appropriate award process for spectrum to be used by earth stations, the Commission is mindful of the aim, set out in its Spectrum Strategy,¹⁰ to ensure that spectrum usage rights are assigned in a manner that maximises investment in communications infrastructure and services on the Island. The Commission is also keen to ensure that the process used is the least burdensome and which facilitates the early award of spectrum usage rights, on a fair, open, transparent and non-discriminatory basis, to interested operators.
- 3.2 In the September 2015 Consultation, the Commission suggested that the situation concerning the process for a spectrum award recommendation for earth stations differs from that of 4G (for mobile) and 3.6 GHz (for wireless access) in several respects. Notably, given sufficient geographical distance on the ground between the earth stations concerned, several earth stations can use the same frequencies. Also, the transmission is narrow and aimed up to a satellite, and the spectrum is not used across a wide geographic area.
- 3.3 These differences allow for a simpler process for a spectrum award recommendation, whereby applications can be processed in the order that they are submitted (first-come-first-served), subject to satisfying certain technical requirements. A spectrum award recommendation would not be made on an exclusive basis, and a service using the spectrum would not need to be launched within a set time.

Summary of responses

- 3.4 The respondents agreed that spectrum for use by earth stations is not subject to the same issues of scarcity and potential interference as the use of spectrum for other electronic communications networks and services. However, several respondents pointed out that potential interference could not be ruled out entirely, and it was suggested that there could be a need for interference management. Interference could especially be a concern in situations when frequencies are also used for fixed wireless access and other non-earth-station applications.
- 3.5 Several respondents expressed concern about the use of the phrase 'first-come-first served' (FCFS) because FCFS can be interpreted to imply exclusivity rights in connection with a spectrum holding for the first party requesting or being awarded

¹⁰ *Response to Consultation on Options for Managing the Radio Frequency Spectrum*, Communications Commission, January 2012

that holding. Respondents noted that granting exclusive rights to a spectrum holding for earth station use does not seem appropriate if issues of scarcity and interference are minimal. One respondent agreed with the FCFS approach if this simply means that applications will be processed administratively on an FCFS basis, with no implied exclusivity.

- 3.6 There was some support for not having a requirement to launch a service within a specified amount of time due to minimal risk of spectrum scarcity or interference. However, several respondents suggested that the absence of this requirement could lead to a risk of spectrum hoarding or speculative licence applications, and that a service should be launched within a reasonable amount of time. It was suggested that the TA earth station licence term of 15 years would allow a review of the licence at the end of the term, and thus act as a monitoring mechanism. This takes into account that commercial pressures would also encourage the launch of a service. One respondent further suggested that a licence should be surrendered after 36 months of non-use, noting that this is comparable to the suspension period for space station spectrum.

Commission's analysis

- 3.7 The use of the term FCFS in the September 2015 Consultation was to indicate that licence applications for earth stations will be administratively processed in the order that they are submitted. For example, if Applicant A submits an application for spectrum block X for use by an earth station before Applicant B applies for the exact same spectrum block X for use by an earth station, Applicant A's application will be processed before Applicant B's application. However, Applicant A will not acquire any exclusive rights with respect to spectrum block X. Applicant B could also have access to that spectrum.
- 3.8 The term FCFS in the September 2015 Consultation was also intended to indicate that licences for earth stations would be awarded upon request, subject to satisfying Ofcom requirements. Auctions or other aspects of a more involved award process would not be required.
- 3.9 Around the time of the consultation period, the Commission was asked by a prospective earth station operator to facilitate discussions with a licensed on-Island user of fixed wireless access in order to resolve potential interference issues. Taking into account this actual occurrence of interference/scarcity with respect to earth station spectrum as well the concerns detailed by respondents, the Commission considers that the interference/scarcity risks for earth station spectrum—although low—are significant enough to warrant some form of launch obligation.
- 3.10 Telecommunications licences under the TA continue in perpetuity after the initial licence term as opposed to being 'renewed', and the specified grounds for revocation are tied to issues such as non-payment of licence fees, or contravention of licence conditions. The 'standard' licences are not a practical means of monitoring service launch progress or timeframes, unless the licence is modified to include a specific requirement. For this reason, in the case of operators awarded 4G and 3.6 GHz spectrum, a new Part with a specific launch obligation was inserted. 4G services were

required to be launched within 9 months, while the required launch for 3.6 GHz was within 24 months. These timeframes reflect the nature of the services and the associated spectrum.

- 3.11 According to Ofcom’s licensing procedures manual for Permanent Earth Stations, the relevant satellite with respect to an earth station spectrum application must come into operation within 36 months of the earth station spectrum application.¹¹ This may create an expectation that earth station services will be launched within 36 months. However, the WTA earth station licence does not actually require an earth station to become operational within a set timescale.
- 3.12 Respondents have suggested that TA licence requirements should not stray too far from WTA requirements and that earth stations are a long term investment. Respondents have also suggested that a small risk of spectrum interference/scarcity does exist, and that some form of launch obligation in the TA licence could facilitate efficient use of spectrum. Taking these factors into account, the Commission is minded to impose a launch obligation of 36 months in a TA licence for earth stations. To increase certainty, the Commission’s view is that an obligation to launch services within 36 months should start upon award of the TA licence rather than receipt of a licence application. This requirement will be included in a newly issued TA licence or TA licence modification to operate earth stations.

Commission’s decision

Decision 2: Licence applications for earth stations will be processed in the order submitted. A spectrum award recommendation for an earth station will be made, with no exclusivity rights, subject to satisfying Ofcom requirements. Earth station services must be launched within 36 months of a relevant licence award or modification.

Details of proposed licence award process

Proposal 3: The licence award process for spectrum to be used by earth stations will comprise three stages, i.e. an Application Stage, Evaluation Stage and Award Stage. Do you agree with this proposal?

Summary of September 2015 Consultation proposals

- 3.13 The September 2015 Consultation proposed a three-stage award process for spectrum to be used by earth stations, which was made up of an application stage, evaluation stage, and award stage. This process also encompassed the application and award process for a TA licence if required.
- 3.14 The application stage required an applicant to notify the Commission of its intent to apply for spectrum. New entrants would also need to apply for an Earth Station Licence under the TA by completing a detailed licence application form. The evaluation stage allowed for Ofcom processing of the required WTA licence application and

¹¹ See http://licensing.ofcom.org.uk/binaries/spectrum/satellite-earth-stations/PES_Licensing_procedures_ma1.pdf.

Commission processing of the TA licence modification or issuance application in parallel. The award stage would depend on the successful modification or issuance of the operator's TA licence, and the acceptance by Ofcom of the WTA licence application submitted to Ofcom upon the Commission's recommendation.

Summary of responses

- 3.15 The respondents noted that earth stations can be used for different purposes, and that the anticipated use of earth stations on the Island would be for purposes such as controlling satellites or serving off-Island customers. Also, some possible services, such as earth observation, might not be considered telecommunications services. Respondents generally felt that provision of services to on-Island consumers or businesses is currently unlikely. One respondent expressed concern about having to provide detailed financial information as part of the application process for the TA licence, as this would conflict with its business model and customer obligations.
- 3.16 Two respondents suggested that the Commission and Ofcom should provide indicative timescales for different stages of the process. There was also a suggestion that the timescale for processing an application from a current holder of a full TA licence be distinguished from the processing timescale for a new entrant. If the holder of a full TA licence needs a TA licence modification, the process should be simplified for full TA licence holders. This is because full TA licence holders have already demonstrated their financial standing and credibility with respect to operating on the Island, and are already licensed to provide telecommunications systems of every description within the Island (which includes earth stations).
- 3.17 One respondent asked for details of the criteria that the Commission would consider in making a recommendation for spectrum award to Ofcom, and queried if Ofcom should be the first point of contact in the licensing process.

Commission's analysis

- 3.18 Section 1 of the TA states that the Commission must ensure that operators providing telecommunications services on the Island are able to 'finance the provision of those services'.¹² The evidence of an operator's ability to finance provision of its services reduces the chance of business failure or other events that could negatively impact consumers or other stakeholders on the Island. Section 1 also states that the Commission must exercise its functions in a manner 'best calculated to promote the interests of consumers, purchasers and other users of telecommunication services or telecommunication apparatus in the Island...'¹³ These TA obligations underlie the detailed questions regarding finances and business plans in the TA licence application that was attached to the 15 September Consultation.
- 3.19 According to the explanations from respondents, the anticipated activities of earth station operators on the Island will not be aimed at on-Island consumers or businesses and will not impact them. Also, the operation of an on-Island earth station does not

¹² See s.1(1) of Telecommunications Act 1984.

¹³ See s.1(2) of Telecommunications Act 1984.

appreciably reduce the ability to operate an additional on-Island earth station. There is a risk of interference with non-earth-station spectrum applications, but the risk will be addressed through spectrum coordination and a service launch obligation. Based on these factors, the Commission considers that it can fulfil its obligations under Section 1 of the TA without requiring detailed financial and business information from prospective earth station operators.

- 3.20 The Commission also considers that upon its decision to modify or issue an earth station licence under the TA, such modification or issuance should in principle be effected without a notice period. As discussed above, the licence modification or issuance is not expected to materially affect consumers, purchasers and other telecommunication users on the Island. Therefore, public notice would be of little benefit.
- 3.21 Section 10 of the TA requires the Commission to give 28 days' notice before modifying a licence, but is silent on the issuing of new licences.¹⁴ New communications legislation is being drafted to update this approach and give the Commission more discretion regarding licensing processes and related matters. The Commission will consult as part of the Communications Bill 2015 that it will no longer be an automatic requirement that in the case of all modifications of licences a notice period will be required. So, if a licence holder consents to a licence modification, a notification procedure will not necessarily apply.
- 3.22 Due to the constraints of current legislation, the Commission will give 28 days' notice before inserting the earth station Part in an existing TA licence. This notice will essentially be an administrative matter and is expected to no longer be required under the forthcoming new legislation.
- 3.23 The current legislation does not require a notice period before issuing a licence. Therefore, new earth station licences under the TA will be issued by the Commission without a notice period. The Commission also notes that if a current TA licensee feels disadvantaged by the required notice period, the licensee can apply for a new earth station licence rather than a modification of its currently held licence.
- 3.24 The Commission will remain the first point of contact for prospective earth station operators, and maintains that a simplified three-stage award process for spectrum to be used by earth stations can be followed. The award process encompasses a spectrum licence recommendation for earth stations under the WTA and the modification or issuance of a licence to operate earth stations under the TA. A draft earth station Part for an existing TA licence is attached to this paper as Annex 1, and a draft TA earth station licence is attached as Annex 2.

Application Stage: An earth station operator in the Isle of Man will require a WTA licence issued by Ofcom on the recommendation of the Commission. All prospective operators of an earth station on the Isle of Man should notify the Commission of their intent to apply for spectrum for purposes of an earth station. This can be in the form

¹⁴ See s.10 of Telecommunications Act 1984.

of a letter signed by an appropriate representative of the organization. (This simplified notice replaces the originally proposed 'Spectrum Application Notice'.) Holders of a TA licence will require a new Part in their licence, and a potential new entrant will require an earth station licence under the TA. In these cases, the notice will also serve as an application for a TA licence modification or issuance. Particularly in the case of a new entrant, the notice/application letter should provide an indication of the applicant's planned earth station activity on the Island. The Commission reserves the right to request further information depending on contents of the notice.

Evaluation Stage: Upon receiving a notice/application letter from a prospective earth station operator, the Commission will review the submission. This review will be 'light' in accordance with the reasons discussed earlier, but planned earth station activities should be reasonably explained, particularly in the case of new entrants. Unless there is a need for more information, the Commission will recommend to Ofcom that spectrum be allocated to the operator, subject to the operator submitting to Ofcom a valid application for an earth station licence under the WTA. Where an operator's existing TA Licence requires a new Part, the Commission will give 28 days' public notice under Section 10 of the TA of its intention to modify the licence. Such notice will be given in parallel with the aforementioned spectrum allocation recommendation to Ofcom. The issuance of a new TA licence for earth stations will be effected without public notice.

Award Stage: The award depends on the acceptance by Ofcom of the spectrum application under the WTA and the successful modification or issuance of a licence under the TA.

Commission's decision

Decision 3: A simplified licensing process will be implemented for spectrum to be used by earth stations and related modification or issuance of a TA licence. The process will comprise three stages, i.e. an Application Stage, Evaluation Stage and Award Stage, as described above.

Licence fees

- 3.25 Although not raised as a separate proposal in the September 2015 Consultation, the issue of fees generated much discussion and can most effectively be discussed as a proposal and related decision.

Proposal 4: The Commission will levy a one-time £3,000 earth station licence fee, as well as an annual TA licence fee based on a percentage of revenue generated by licensed activities. Do you agree with this proposal?

Summary of September 2015 Consultation proposals

- 3.26 Successful applicants for a WTA licence in connection with an earth station will be liable for the WTA fees which are payable directly to Ofcom.

- 3.27 The Commission considers it appropriate, given the economic value of the spectrum to be assigned, and its need to cover its own costs in relation to the award process, to levy a fee on operators who are applying for a licence in order to offer earth station services. Such an approach is consistent with the Commission's position on licence fees, as set out in its 2012 Spectrum Strategy.¹⁵ The proposed fee will be charged both to new operators who apply for and are granted licences by the Commission to provide services in the band and to existing licensed operators who require a licence modification. The Commission proposes to charge a fee of £3,000. This is the level of fee which was set in the recent Decision on the Licensing of Spectrum in the 3.6 GHz Band. This fee will be payable by each licensee on the award of the licence.
- 3.28 In addition, a new entrant that is issued a telecoms licence under the TA will be subject to the annual fees for that licence. The licence fee will be based on a percentage of revenue generated by licensed activities.

Summary of responses

- 3.29 One respondent requested confirmation that the £3,000 fee is a one-time fee. Another respondent suggested that this fee should be lower for holders of a full TA licence versus new entrants, as dealing with new entrants requires more Commission resources. There also seemed to be a query on whether the £3,000 fee would be levied on operators holding a licence to operate earth stations (as opposed to e.g. a full TA licence holder).
- 3.30 With respect to the annual licence fee, several respondents were concerned about basing the fee on revenue from licensed activities. It was pointed out that earth stations for TT&C will not transmit content and will not generate revenue, while earth stations transmitting data will do so for off-Island customers. In such circumstances, according to respondents' interpretation of the Commission's fee calculation guidelines, the percentage-of-revenue-based fee would be zero.
- 3.31 One operator took the view that an annual revenue-based fee for earth stations should be charged in a manner consistent with the Commission's existing fee calculation guidelines. Treatment of an earth station serving off-Island customers could be analogous to the treatment of pure transit—when there is no origination switching or termination in the Isle of Man, revenue is not subject to a fee. Some respondents explained that earth stations may form part of an overall system to operate satellites or serve customers, and it would be difficult to attribute revenue to an individual earth station.
- 3.32 It was suggested that a jurisdiction with a revenue-based fee could be unattractive for investment by nano satellite companies. A fee structure that is too bureaucratic or costly, or that requires disclosure of sensitive business data, could also discourage start-ups, low cost operators, and even larger operators from doing business on the Island. One operator acknowledged the Commission's need to recover its costs

¹⁵ *Response to Consultation on Options for Managing the Radio Frequency Spectrum*, Communications Commission, January 2012.

through fees, but questioned the use of revenue-based fees. The Commission could charge a small cost-based fee or fixed percentage of the Ofcom spectrum fee. A concern was also raised about having a 14-day payment deadline for the licence fee, which might not allow enough time for technical or administrative difficulties. A 30-day deadline was suggested.

Commission's analysis

- 3.33 The earth station licence fee is £3,000 and is a one-time fee. The fee is based on the economic value of the spectrum to be assigned, and the need to cover costs related to the award process. The Commission's efforts in this respect are not dependent on the nature of the TA licence modified or awarded. Consequently, the fee is levied on any operator that is awarded spectrum for earth stations.
- 3.34 The Commission does not agree that revenue-based fees are unusual. The annual licence fee is for holding a telecommunications licence under the TA and is meant to reflect regulatory costs of the Commission and the value of the licence. This is analogous to fees charged under general authorisation or licence regimes in other jurisdictions. It is not uncommon for such fees to be revenue-based. For example, fees under the UK's general authorisation regime are revenue-based.
- 3.35 As proposed in the September 2015 Consultation, a fee of £500 will be payable upon issuance of an earth station licence under the TA. On every anniversary thereafter, a fee of £500 pounds plus 0.5% of Turnover in excess of £100,000 must be paid. 'Turnover' is interpreted to mean gross revenue from electronic communications networks and services provided (wholly or partly) in the Isle of Man.
- 3.36 The Commission's intent is that calculating the annual licence fee should be efficient for licence holders. The process should not impose undue administrative burden or inordinate disclosure of sensitive information. If an earth station is being used only for TT&C or services for off-Island customers, the Commission confirms that the revenue generated from electronic communications networks and services provided on the Island will be considered to be zero. Therefore, only the minimum licence fee payment of £500 per annum will be due. Through discussions with operators and other stakeholders before publication of this paper, the Commission has ascertained that a fee amount of £500 should not be a barrier to potential operators on the Island.
- 3.37 If an earth station, in the future, generates revenues from electronic communications services provided on the Island, the licence fee might in part be based on revenue. As mentioned earlier, annual revenue from on-Island activities must exceed £100,000 in order for the revenue-based fee component to be triggered. To demonstrate to the Commission for purposes of the licence fee that revenues from licensed activities are not above £100,000, the Commission considers that a letter with a statement to this effect and certified by a responsible person within the company (e.g. CEO or CFO) will be sufficient. Such a letter will be required once per year, shortly before the licence fee is due to be calculated and paid. The Commission considers this approach to be appropriate and not overly burdensome.

3.38 The 14-day fees payment deadline is a standard requirement in TA licences, and will also be included in earth station licences. The Commission in enforcing this deadline will act fairly and proportionately, taking into account factors such as technical or administrative issues.

Commission's decision

Decision 4: The Commission will levy a one-time £3,000 earth station licence fee, as well as an annual TA licence fee based on 0.5% of relevant revenue generated by licensed activities on-Island. An annual fee of £500 is payable if revenue from licensed activities does not exceed £100,000.

4. Commission Decisions

DECISION 1: Operators holding a full TA licence and other licensed operators will require a new Part in their licence. New entrants will require a TA licence that includes the conditions of the new Part. An earth station licence for a new entrant will have an initial term of 15 years.

DECISION 2: Licence applications for earth stations will be processed in the order submitted. A spectrum award recommendation for an earth station will be made, with no exclusivity rights, subject to satisfying Ofcom requirements. Earth station services must be launched within 36 months of a relevant licence award or modification.

DECISION 3: A simplified licensing process will be implemented for spectrum to be used by earth stations and related modification or issuance of a TA licence. The process will comprise three stages, i.e. an Application Stage, Evaluation Stage and Award Stage.

DECISION 4: The Commission will levy a one-time £3,000 earth station licence fee, as well as an annual TA licence fee based on 0.5% of relevant revenue generated by licensed activities on-Island. An annual fee of £500 is payable if revenue from licensed activities does not exceed £100,000.

Annex 1: DRAFT Proposed Licence Variation

Part X of Schedule 1: ADDITIONAL CONDITIONS IN RESPECT OF RUNNING TELECOMMUNICATIONS SYSTEMS FOR THE PROVISION OF EARTH STATION SERVICES

COMMUNICATION PROVIDER'S NETWORK

1.1 In addition to any other telecommunications systems included in the Communications Provider's Network, the Communication Provider's Network also includes telecommunications systems that are Stations for Wireless Telegraphy or Wireless Telegraphy Apparatus used to transmit Messages to or receive Messages from earth orbiting apparatus.

DEFINITIONS

1.2 For the purposes of this Part:

"Message" means anything falling within paragraphs (a) to (d) or section 2(1) of the Telecommunications Act 1984.

"Station for Wireless Telegraphy", "Wireless Telegraphy Apparatus", and "Wireless Telegraphy" have the same meaning as in the Wireless Telegraphy Act 2006 (of Parliament).

PROVISION OF EARTH STATION SERVICES

1.3 The Communications Provider shall ensure that at all times after the Launch Date it is providing earth station services.

1.4 For the purposes of this condition:

- the Launch Date is 36 months following the award of a licence to provide earth station services.

PAYMENT OF FEES

1.5 A Communications Provider that is granted the use of a frequency allocation for the provision of earth station services shall pay, or cause to be paid, to the Treasury the following sum:

- £3,000 within 14 days of the Commission's award of an appropriate Telecommunications Act 1984 licence, or in the case of an existing licensee, a modified Telecommunications Act licence incorporating this Part.

1.6 For the purposes of paragraph 1(b) of Schedule 2, amounts payable under this Condition shall be deemed to be amounts payable under the Payment of Fees Condition of the Operator's licence.

1.7 The appropriate Wireless Telegraphy licence fee shall be paid to Ofcom before the Wireless Telegraphy Act licence is granted.

Annex 2: DRAFT Licence to Provide Earth station Services



**LICENCE GRANTED TO
[LICENSEE]
UNDER SECTION 5 OF THE
TELECOMMUNICATIONS ACT 1984 (OF TYNWALD)**

CONTENTS

Clause	Page
THE LICENCE	24
SCHEDULE 1: CONDITIONS.....	25
PART 1 - DEFINITIONS AND INTERPRETATION RELATING TO THE CONDITIONS IN THIS SCHEDULE	25
1. DEFINITIONS.....	25
2. INTERPRETATION	27
PART 2 - GENERAL CONDITIONS.....	28
1 STANDARDISATION AND SPECIFIED INTERFACES	28
2 REQUIREMENT TO FURNISH INFORMATION TO THE COMMISSION	30
3 PAYMENT OF FEES	31
4 WIRELESS TELEGRAPHY	32
PART 3 - ADDITIONAL CONDITIONS IN RESPECT OF RUNNING TELECOMMUNICATIONS SYSTEMS FOR THE PROVISION OF EARTH STATION SERVICES	33
1 PROVISION OF EARTH STATION SERVICES.....	33
SCHEDULE 2: REVOCATION	34
SCHEDULE 3: COMMUNICATIONS PROVIDER'S NETWORK.....	36
SCHEDULE 4: SERVICE AND CONNECTION AUTHORISATION.....	37

THE LICENCE

1. The Communications Commission (the "**Commission**"), in exercise of the powers conferred on them by section 5 of the Telecommunications 1984 (the "**Act**"), hereby grants to [Licensee] (a company incorporated in the Isle of Man with registered number [number] (the "**Communications Provider**") a licence, for the period specified in paragraph 2, subject to the conditions set out in Schedule 1 and to revocation as provided for in Schedule 2 to run telecommunication systems specified in Schedule 3 within the Isle of Man (the "**Communications Provider's Network**") and authorises the Communications Provider to do all or any of the acts specified in Schedule 4.
2. Subject to section 6(3) of the Act, this Licence shall enter into force on [date] and shall be of 15 years' duration in the first instance. Without prejudice to Schedule 2, this Licence shall be subject to revocation thereafter on 1 year's notice in writing. Such notice shall not be given before the end of the fourteenth year after the granting of this Licence.
3. This Licence shall not be assigned.
4. The conditions of this Licence may be modified in accordance with section 10(3) of the Act.
5. The Interpretation Act 1976 shall apply for the purpose of interpreting this Licence as if it were an Act of Tynwald. For the purpose of interpreting this Licence, headings and titles shall be disregarded.
6. For the purposes of this Licence "**Communications Provider's Network**" means any or all of the telecommunication systems run by the Communications Provider unless the context otherwise requires.
7. Where this Licence provides for any power of the Commission to give any direction, notice or consent or make any specification or for the Commission to make any designation or determination, it implies, unless the contrary intention appears, a power, exercisable in the same manner and subject to the same conditions or limitations, to revoke, amend or give or make again any such direction, notice, consent, specification, designation or determination; and any reference however expressed to the Commission making any determination or giving any direction or consent about any matter shall be construed as making such determination or giving such direction or consent after consultation with the Communications Provider and where appropriate with any other person who may have a relevant interest in the matter to which the determination, direction or consent relates.
8. Any notification which is required to be given under this Licence by the Commission shall be satisfied by serving the document by post on the Communications Provider at the Communications Provider's registered office.

Director

duly authorised by the Commission

[date]

SCHEDULE 1: CONDITIONS

PART 1

DEFINITIONS AND INTERPRETATION RELATING TO THE CONDITIONS IN THIS SCHEDULE

1. DEFINITIONS

In this Schedule, except in so far as the context otherwise requires:

"**Apparatus**" includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

"**Commission**" means the Communications Commission;

"**Control**" means the power (directly or indirectly) whether by holding of securities, voting control, contract or otherwise, to appoint or remove a majority of the directors of a company and includes the power to appoint or remove a majority of the directors of a company if exercisable through any number of intermediate bodies corporate prior to its possible exercise over the company in question;

"**Customer**" in relation to a provider of Electronic Communications Networks or Electronic Communications Services, means the following (including a person whose use or potential use of the Electronic Communications Network or Electronic Communications Service is for the purposes of, or in connection with, a business):

- a) a person to whom the Electronic Communications Network or Electronic Communications Service is provided in the course of any business carried on as such by the provider;
- b) a person to whom the provider is seeking to secure that the Electronic Communications Network or Electronic Communications Service is so provided;
- c) a person who wishes to be so provided with the Electronic Communications Network or Electronic Communications Service, or who is likely to seek to become a person to whom the Electronic Communications Network or Electronic Communications Service is so provided;

"**Electronic Communication**" means a communication for transmission by means of an Electronic Communications Network;

"**Electronic Communication Apparatus**" means telecommunication apparatus as defined in section 2 of the Act;

"**Electronic Communications Network**" means a telecommunication system as defined in section 2 of the Act;

"**Electronic Communications Service**" means a telecommunication service as defined in section 2 of the Act;

"End-User", in relation to a Public Electronic Communications Network or Public Electronic Communications Service, means:

- a) a person who, otherwise than as a provider of an Electronic Communications Network or Electronic Communications Service, is a Customer of the provider of that Public Electronic Communications Network or Public Electronic Communications Service;
- b) a person who makes use of the Public Electronic Communications Network or Public Electronic Communications Service otherwise than as a provider of an Electronic Communications Network or Electronic Communications Service; or
- c) a person who may be authorised, by a person falling within paragraph (a), so to make use of the Public Electronic Communications Network or Public Electronic Communications Service;

"Essential Requirements" means the essential requirements set out in regulation 4 of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (United Kingdom Statutory Instrument 2000 No.730) (as amended) or as the Commission may from time to time specify;

"Interconnection" means the linking (whether directly or indirectly by physical or logical means, or by a combination of physical and logical means) of one Public Electronic Communications Network to another for the purpose of enabling the persons using one of them to be able:

- a) to communicate with users of the other one; or
- b) to make use of services provided by means of the other one (whether by the provider of that Network or by another person);

"Message" means anything falling within subsections (a) to (d) of section 2(1) of the Act;

"Network Access" means:

- a) Interconnection of Public Electronic Communications Networks; or
- b) any services, facilities or arrangements which are not comprised in Interconnection, but are services, facilities or arrangements by means of which a provider of Electronic Communications Networks or Electronic Communications Services or associated facilities is able, for the purposes of the provision of an Electronic Communications Service (whether by him or by another), to make use of any of the following:
 - (i) any Electronic Communications Network or Electronic Communications Service provided by another;
 - (ii) any Apparatus in such a Electronic Communications Network or used for the purposes of such a Electronic Communications Network or Electronic Communications Service; and

- (iii) any other services or facilities which are provided or made available by another person and are capable of being used for the provision of an Electronic Communications Service,

and references to providing Network Access include references to providing any such services, making available any such facilities or entering into any such arrangements;

"Public Electronic Communications Services" means any Electronic Communications Service that is provided so as to be available for use by members of the public;

"Signal" includes:

- a) speech, music and other sounds;
- b) visual images;
- c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; and
- d) signals serving for the actuation or control of any machinery or apparatus;

"Station for Wireless Telegraphy" has the same meaning as in the Wireless Telegraphy Act 2006 (of Parliament).

"UK" means the United Kingdom and the Channel Islands;

"Wireless Telegraphy" has the same meaning as in the Wireless Telegraphy Act 2006 (of Parliament).

"Wireless Telegraphy Apparatus" has the same meaning as in the Wireless Telegraphy Act 2006 (of Parliament).

2. **INTERPRETATION**

For the purpose of interpreting the conditions in this Schedule:

- a) except in so far as the context otherwise requires, words or expressions shall have the meaning assigned to them in the Schedule;
- b) headings and titles shall be disregarded; and
- c) expressions cognate with those referred to in this Schedule shall be construed accordingly.

PART 2 GENERAL CONDITIONS

1 STANDARDISATION AND SPECIFIED INTERFACES

- 1.1 The Communications Provider shall comply with any relevant standards and/or specifications as are listed in the Official Journal of the European Communities for the provision of services, technical interfaces and/or network functions. Where no standards or specifications have been so published, the Communications Provider shall take full account of any relevant standards and/or specifications adopted by the European Standards Organisations.
- 1.2 In the absence of such standards and/or specifications referred to in paragraph 1.1 above, the Communications Provider shall take full account of relevant international standards or recommendations adopted by the International Telecommunication Union (ITU), the International Organisation for Standardisation (ISO) or the International Electrotechnical Committee (IEC).
- 1.3 In the absence of such standards and/or specifications referred to in paragraph 1.1 and 1.2 above, the Communications Provider shall take full account of any other standard specified by the Commission in a direction under this Condition for the purposes of service interoperability and Interconnection, provided that the Commission shall not make such a direction if an appropriate European or international standard is expected to be promulgated within a reasonable time.
- 1.4 The Commission may from time to time issue a direction under this Condition requiring a specified Network Interconnection Interface to be compliant with a specified standard. Any such direction shall be to ensure End to End Connectivity and interoperability, and shall only require compliance with a relevant standard in existence as referred to in paragraphs 1.1 to 1.3 above.
- 1.5 Subject to paragraph 1.6 below, the Communications Provider shall ensure that any Network Interconnection Interface provided by it which is specified in any direction under paragraph 1.4 above is compliant with the specified standard in that direction.
- 1.6 The Communications Provider shall not be required to comply with paragraph 1.5 above where:
 - 1.6.1 any other provider of a Public Electronic Communications Network seeking Interconnection with the Communications Provider's Network at the relevant Network Interconnection Point does not require it to do so; or
 - 1.6.2 to do so would require the Communications Provider to incur any cost, or resolve any technical difficulty, disproportionate to the benefits to be gained from implementing the specified standard, provided that the Communications Provider takes reasonable steps to incorporate the specified standard in its plans for network development.
- 1.7 For the purposes of this Condition:

- 1.7.1 **"End to End Connectivity"** means the facility:
- 1.7.1.1 for different End-Users of the same Public Electronic Communications Network or Public Electronic Communications Service to be able to communicate with each other; and
 - 1.7.1.2 for the End-Users of different Public Electronic Communications Networks or Public Electronic Communications Services to be able, each using the network or service of which he is the End-User, to communicate with each other;
- 1.7.2 **"European Standards Organisations"** means the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), and the European Telecommunications Standards Institute (ETSI);
- 1.7.3 **"Network Interconnection Interface"** means the Technical Characteristics of each interface at any Network Interconnection Point;
- 1.7.4 **"Network Interconnection Point"** means the physical location at which Interconnection between different Public Electronic Communications Networks takes place;
- 1.7.5 **"Technical Characteristics"** means the physical, electrical and other relevant characteristics and the network interworking and service management protocols.

2 REQUIREMENT TO FURNISH INFORMATION TO THE COMMISSION

- 2.1 Without prejudice to any other provision in this Licence or other relevant legislation relating to the provision of information, the Communications Provider shall furnish to the Commission, in such manner and at such times as the Commission may reasonably request, such documents, accounts, estimates, returns or other information as the Commission may reasonably require for the purpose of verifying that the Communications Provider is complying with the Conditions of this Licence and for statistical purposes.
- 2.2 In making any such request, the Commission must ensure that:
- 2.2.1 any such request sets out the Commission's reasons for requiring such information and, in particular, where the request is for statistical purposes, defines the statistical purposes for which the information is required; and
 - 2.2.2 no undue burden is imposed on the Communications Provider in procuring and furnishing such information and, in particular, the Communications Provider is not required to procure or furnish information which would not normally be available to it unless the Commission considers that the particular information is essential for the purposes set out in accordance with paragraph 2.2.1 above; and
 - 2.2.3 any such request is proportionate and objectively justified, taking into account:
 - 2.2.3.1 the Commission's reasons for requiring such information;
 - 2.2.3.2 the amount of information that the Commission requires; and
 - 2.2.3.3 the burden likely to be imposed on the Communications Provider, including any likely cost implications.

Notification of Change in Control

- 2.3 Where such proposals are known to the Communications Provider, it shall give not less than 28 days' notice in writing to the Commission in advance of any proposed change of Control.

3 PAYMENT OF FEES

3.1 The Communications Provider shall pay, or cause to be paid, to the Treasury on [date], the sum of £500 (five hundred pounds); and

3.1.1 on [date], and annually thereafter:

(a) on the first £100,000 (one hundred thousand pounds) of Turnover, a fixed sum of £500 (five hundred pounds); and

(b) 0.5 per cent of any Turnover in excess of £100,000 (one hundred thousand pounds).

3.2 The percentage of Turnover specified in paragraph 3.1.1(b) may be modified by the Commission with the consent of the Treasury, in order to reflect current regulatory costs, at any time after the grant of this Licence.

3.3 For the purposes of this Condition "**Turnover**" means the total revenue generated by the provision of Electronic Communications Networks and Services under this Licence for the financial year ending immediately before the due date for payment of the fee.

DRAFT

4 WIRELESS TELEGRAPHY

Where the Communications Provider operates any Apparatus requiring a wireless telegraphy licence under the Wireless Telegraphy Act 2006 (of Parliament) (as this Act has effect in the Island) as part of the Communications Provider's Network, such a wireless telegraphy licence must be in force in respect of each such piece of Apparatus.

DRAFT

PART 3
ADDITIONAL CONDITIONS IN RESPECT OF RUNNING TELECOMMUNICATIONS
SYSTEMS FOR THE PROVISION OF EARTH STATION SERVICES

1 PROVISION OF EARTH STATION SERVICES

- 1.1 The Communications Provider shall ensure that at all times after the Launch Date it is providing earth station services.
- 1.2 For the purposes of this Condition:
 - 1.2.1 the Launch Date is 36 months following the award of a licence to provide earth station services.

Payment of Fees

- 1.3 A Communications Provider that is granted the use of a frequency allocation for the provision of earth station services shall pay, or cause to be paid, to the Treasury the following sum:
 - 1.3.1 £3,000 within 14 days of the Commission's award of an appropriate Telecommunications Act 1984 licence, or in the case of an existing licensee, a modified Telecommunications Act licence incorporating this Part.
- 1.4 For the purposes of paragraph 1(b) of Schedule 2, amounts payable under this Condition shall be deemed to be amounts payable under the Payment of Fees Condition of the Operator's licence.
- 1.5 The appropriate Wireless Telegraphy licence fee shall be paid to Ofcom before the Wireless Telegraphy Act licence is granted.

SCHEDULE 2: REVOCATION

1. Notwithstanding paragraph 2 of the Licence the Commission may at any time revoke this Licence by 30 days' notice in writing given to the Communications Provider at its registered office in any of the following circumstances:
 - a) if the Communications Provider agrees in writing with the Commission that this Licence should be revoked;
 - b) if any amount payable under Condition 3 of this Licence is unpaid after it becomes due and remains unpaid for a period of 14 days after the Commission notifies the Communications Provider that the payment is overdue, such notification not to be given earlier than the sixteenth day after the day on which the payment becomes due;
 - c) if the Communications Provider fails to comply with an order made by the Commission under section 11 of the Act and that order is not subject to proceedings for review and such failure is not rectified within 30 days, or such longer period as the Commission may determine, after the Commission has given notice in writing of such failure to the Communications Provider;
 - d) if the Communications Provider;
 - (i) is deemed unable to pay its debts (within the meaning of section 163 of the Companies Act 1931 (as amended) as applied for the purposes of this Licence by paragraph 2 below), convenes any meeting with its creditors generally with a view to the general readjustment or re-scheduling of its indebtedness or makes general assignment for the benefit of its creditors generally; or
 - (ii) enters into receivership or liquidation; or
 - (iii) ceases to carry on its business;
 - e) if the Communications Provider or any other person takes any action for voluntary winding-up or dissolution of the Communications Provider;
 - f) if the Communications Provider enters into any scheme of arrangement (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission);
 - g) if a receiver, trustee or similar officer of the Communications Provider, or of all or any material part of the revenues and assets of it, is appointed; or
 - h) if any order is made for the compulsory winding-up or dissolution of the Communications Provider.
2. For the purpose of paragraph 1(d)(i) of this Schedule, in applying section 163(1) of the Companies Act 1931 (as amended) the figure of "£50" or such other money sum as may be

specified from time to time, shall be deemed to be replaced by £250,000 or such higher figure as the Commission may determine. Section 163(1) shall not apply if the written demand served on the Communications Provider is being contested in good faith by the Communications Provider with recourse to all appropriate measures and procedures, whether legal or otherwise, or is satisfied prior to expiry of the notice of revocation from the Commission.

DRAFT

SCHEDULE 3: COMMUNICATIONS PROVIDER'S NETWORK

1. The Communications Provider's Network may be comprised of telecommunications systems of every description within the Island provided that the telecommunications systems are Stations for Wireless Telegraphy or Wireless Telegraphy Apparatus used to transmit Messages to or receive Messages from earth orbiting apparatus.
2. In this Schedule "**Message**" means anything falling within subsections (a) to (d) of section 2(1) of the Act.

DRAFT

SCHEDULE 4: SERVICE AND CONNECTION AUTHORISATION

1. Nothing in this Licence removes any need to obtain any other licence that may be required under any other statutory provision.

Connection Authorisation

2. Subject to paragraph 1, this Licence authorises the connection to the Communications Provider's Network of:
 - a) any telecommunication system run under a licence granted under section 5 of the Act;
 - b) any telecommunication system outside the Island;
 - c) any earth orbiting apparatus;
 - d) any telecommunication system run by the Crown;
 - e) any telecommunication system situated in an aircraft, seagoing vessel, hovercraft or offshore installation;
 - f) telecommunication apparatus of every description which is comprised in a telecommunication system mentioned in sub-paragraphs (a) to (e) above;
 - g) any telecommunication apparatus not comprised in a telecommunication system which is for the time being approved for connection to the Communications Provider's Network under section 16 of the Act or by virtue of an order made under section 21 of the Act or which meets the appropriate Essential Requirements; and
 - h) any hearing aid.

Service Authorisation

3. Subject to paragraph 1, this Licence authorises the provision by means of the Communications Provider's Network of electronic communication services for the transmission of Messages to or the reception of Messages from earth orbiting apparatus.
4. In this Schedule:
 - a) "**Essential Requirements**" has the same meaning as in Schedule 1 of this Licence;
 - b) "**seagoing vessel**" includes any floating structure for the exploration for, or exploitation of, oil or gas, or similar structure, while it is not maintained on a station;
 - (c) "**Message**" means anything falling within subsections (a) to (d) of section 2(1) of the Act;

Any word or expression used in this Schedule shall unless the context otherwise requires have the same meaning as it has in the Act.

DRAFT