



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

2 September 2015

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Executive summary

Interest has been expressed in operating satellite earth stations on the Isle of Man. The earth stations will require the use of spectrum to transmit data to satellites. In this consultation, the Communications Commission proposes a process for awarding licences on the Island for that purpose. The process encompasses the issuing or modification of an appropriate Telecommunications Act 1984 licence and the recommendation to Ofcom that a Wireless Telegraphy Act (2006 of Parliament) licence is also granted.

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. They are typically used to provide telephony, data, backhaul, broadcast feeder links and two-way business/consumer broadband or corporate type communications. The Communications Commission (Commission) has received interest in operating Permanent Earth Stations on Island which the UK Office of Communications (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 The Commission anticipates receiving one or more requests for telecommunications licences for the operation of Earth Stations on the Island. In conducting this consultation, the Commission seeks to put in place a process for awarding a new Telecommunications Act 1984 (TA) licence or making any necessary modification to an existing TA licence. The Commission will then recommend to Ofcom that a Wireless Telegraphy Act 2006 (WTA) licence is awarded to the successful applicant.
- 1.3 Ofcom has allocated certain frequencies for use by Earth Stations.² Detailed frequency allocations can be found in the UK's frequency allocation table.³
- 1.4 It is now established practice that the Commission carries out an open, non-discriminatory and transparent selection process on behalf of Ofcom. Arising from the selection process carried out by it, the Commission makes a recommendation to Ofcom as to how it considers the spectrum in the Isle of Man should be allocated.
- 1.5 There is no spectrum scarcity associated with Earth Stations. However, there may be issues when they use frequencies that are already/may be occupied by other users (such as spectrum access in 3600 – 4200 MHz). Therefore, the Commission proposes that Earth Station Licences or modifications, if appropriate, will be awarded on a first-come-first-served basis, using a three-stage process, as described in this consultation.
- 1.6 The licensing of the Earth Station operators will take one of two forms. All currently licensed operators will require a modification to their licence. Operators who currently hold a full TA licence on the Isle of Man are licensed to provide "telecommunications systems of every description within the Island." However, it may be that further specification of the services may be required, or that conditions may be attached to the award. If this is the case, a licence modification would be required. Manx Telecom, Sure and Wi-Manx hold full TA licences. Other licensed operators may also require a

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

² UK Frequency Allocations for Satellite Earth Stations (OfW 241), Ofcom, March 2013, available at: http://licensing.ofcom.org.uk/binaries/spectrum/satellite-earth-stations/OfW_241_Mar_2013.pdf

³ UK Frequency Allocation Table, available at: <http://stakeholders.ofcom.org.uk/spectrum/information/uk-fat/>

licence modification which would consist of a new Part, containing conditions relating to the provision of Earth Stations, and depending on the form of the licence already held, may need further specification of services and conditions. New entrants will be issued with a new earth station TA licence that includes the new Part.

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;⁴ and
 - setting conditions on such operation and provision.⁵
- 2.2 Spectrum management is the responsibility of Ofcom. It licenses and regulates the use of radio spectrum in the Island, under the 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 TA. 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:

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

⁵ 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

2.8 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's view is 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.

- 2.10 The Commission's proposals for varying existing operators' licences are set out in this consultation and the text of the proposed licence variation is set out in Annex 2.
- 2.11 For a new market entrant, the Commission would issue an appropriate licence under the TA, which would licence the operator to provide telecommunications services on the Island. This may be a licence limited to providing satellite telecommunications services or such other services as may be specified. A sample licence to provide satellite telecommunications services (Earth Station Licence) is set out in Annex 3. The newly issued licence would include the conditions contained in the new Part.

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?

3. Award process for access to spectrum for Earth Stations and Telecommunications Licence

Background to selection of spectrum award process

- 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,⁶ 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 The situation concerning the award of spectrum for Earth Stations differs from that of 4G (for mobile) and 3.6 GHz (for wireless access) spectrum award 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 award process because there are much lower risks in terms of spectrum scarcity and interference in relation to spectrum usage on the Island. As it signalled in its response to the consultation on the 3.6 GHz spectrum award process, the Commission is keen to explore less onerous ways of enabling interested parties to gain access to spectrum assignments in bands where no real scarcity exists, while at the same time being mindful of the requirement to use a process that is open, transparent and non-discriminatory.⁷
- 3.4 The Commission notes that in the UK Ofcom has determined that the most efficient means of awarding spectrum for Earth Stations is on a first-come-first-served basis, as long as an applicant for the spectrum demonstrates compliance with various technical requirements. In addition, there is no obligation to launch a service using the spectrum within a specified amount of time. This consultation proposes a similar process for the Isle of Man. The Commission is of the view that this process is the most appropriate one to use in this instance.

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?

⁶ *Response to Consultation on Options for Managing the Radio Frequency Spectrum*, Communications Commission, January 2012

⁷ *Response to Consultation and Decision on the Licensing of Spectrum in the 3.6 GHz Band and Notice of Proposed Modification to Existing Licence held by BlueWave Communications Ltd*, Communications Commission, 9 June 2015, para. 3.11.

Details of proposed licence award process

- 3.5 The Commission proposes a three-stage award process for spectrum to be used by Earth Stations:

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. Fully licensed operators and other licensed operators should notify the Commission of their intent to apply for spectrum (Spectrum Application Notice). The Spectrum Application Notice should include a preliminary indication of the desired spectrum allocation and location of the Earth Station. A draft Spectrum Application Notice form is attached as Annex 1 to this consultation. All current licensed operators may additionally require a new Part in their licence containing licence conditions relating to the provision of Earth Station services. The draft new Part is attached as Annex 2 to this consultation.

Before or in tandem with submitting a Spectrum Application Notice, a potential new entrant will need to apply for an Earth Station Licence (or an ISP or Full Operator licence as appropriate). A draft Earth Station Licence is attached as Annex 3. This licence includes the conditions of the new Part. To apply for a licence, a potential new market entrant should complete an "Application for a Telecommunications Provider licence" (Telecoms Licence Application). The application package is attached as Annex 4 to this consultation.

Evaluation Stage: Upon receiving the necessary notice from an operator holding a TA licence, the Commission will recommend to Ofcom that spectrum be allocated to the Earth Station operator, subject to the operator submitting to Ofcom a valid "Application for the Issue or Variation of a Satellite Licence under the WTA" (Satellite Spectrum Application). The application can be found here:

http://licensing.ofcom.org.uk/binaries/spectrum/satellite-earth-stations/OFW102_July_2013.pdf

Additional guidance and a sample licence can be found here:

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

Ofcom will determine if the Satellite Spectrum Application satisfies its requirements.

If an operator already holding a TA Licence requires a licence modification, the Commission will give public notice of its intent to modify the operator's licence with the new Part under Section 10 of the TA. This notice will be given in parallel with the abovementioned spectrum allocation recommendation to Ofcom.

In the case of a new entrant, a Telecoms Licence Application must be submitted to the Commission and be evaluated in accordance with the requirements of the TA and the principles explained in the application pack (see Annex 4). If the Commission approves the Telecoms Licence Application, the Commission will give notice of its intent to issue a new licence which includes the conditions of the new Part. This

notice will be issued in accordance with Section 10 of the TA, and will be issued in parallel with the abovementioned spectrum allocation recommendation to Ofcom.

Starting the TA notice period at the same time as submitting the spectrum allocation recommendation to Ofcom enables a faster licencing process while preserving the safeguards and statutory requirements associated with the process.

Award Stage: The award depends on the successful modification or issuance of the operator's licence, and the acceptance by Ofcom of the Satellite Spectrum Application submitted to Ofcom upon the Commission's recommendation.

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, as described above. Do you agree with this proposal?

Licence fees

- 3.6 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. The fees for a licence to use spectrum for Earth Stations are set by Ofcom and based on technical factors. The fee calculation information can be viewed here:
- <http://licensing.ofcom.org.uk/binaries/spectrum/satellite-earth-stations/fees.pdf>
- 3.7 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 spectrum in order to offer satellite telecommunications services. Such an approach is consistent with the Commission's position on licence fees, as set out in its 2012 Spectrum Strategy.⁸
- 3.8 The proposed licence 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.
- 3.9 As regards the level at which the licence fee should be set, 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 spectrum.
- 3.10 In addition, a new entrant that is issued a telecoms licence under the TA will be subject to the fees for that licence. The licence fee will be based on a percentage of revenue generated by licensed activities. The applicable fees are set out in the Telecoms Licence application package (Annex 4).

⁸ Response to Consultation on Options for Managing the Radio Frequency Spectrum, Communications Commission, January 2012.

4. Next steps

Your views are sought on this Consultation paper. Please respond in writing by 17:00 on 1 October to:

Mr Yoav Harel
Regulatory Manager, Communications Commission
Ground Floor, Murray House
Mount Havelock, Douglas
Isle of Man, IM1 2SF
or by email: yoav.harel@iomcc.im

- 4.1 Electronic copies of this document are also available at www.iomcc.im.
- 4.2 When submitting your views please indicate if you are responding on behalf of an organisation. To ensure that the process is open and honest and in line with the Government's Code of Practice on Consultation, responses can only be accepted if you provide your name with your response. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety, within three months of the closing date for this consultation, and will be available on the Commission's website.
- 4.3 It is the Commission's view that it is important that consultations are carried out in a transparent manner, that the views of respondents are published, and that the reasoning behind the Commission's consideration of these views can be made clear. Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. Please indicate clearly if any part of your response should be considered to be commercially sensitive, and so required to be confidential. Confidential responses will be included in any statistical summary and numbers of comments received.
- 4.4 The purpose of consultation is not to be a 'referendum' but an information, views and evidence gathering exercise from which to make an informed decision. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

Annex 1: DRAFT Spectrum Application Notice

PART A: Contact Information

NAME OF APPLICANT	
ADDRESS	
TELEPHONE NUMBER	
EMAIL ADDRESS	
NAME OF NOMINATED POINT OF CONTACT FOR PURPOSES OF APPLICATION	
NOMINATED POINT OF CONTACT ADDRESS	
NOMINATED POINT OF CONTACT TELEPHONE NUMBER	
NOMINATED POINT OF CONTACT EMAIL ADDRESS	

PART B: Application Type

ANNUAL LICENCE, SHORT TERM LICENCE, OR VARIATION OF EXISTING LICENCE	INDICATE APPLICATION TYPE
IF LICENCE VARIATION, INDICATE LICENCE NUMBER	

PART C: Preliminary Spectrum Information

DESIRED SPECTRUM ALLOCATION(S)	PROVIDE DETAILS
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PART D: Preliminary Site Information

SITE NAME	
SITE ADDRESS	
TELEPHONE NUMBER	
LOCATION OF SITE CENTRE	LATITUDE (DEGREES, N/S, MINUTES, SECONDS) LONGITUDE (DEGREES, N/S, MINUTES, SECONDS)

PART E: Signature and Declaration

I declare that the information given in this application and any additional documentation is, to the best of my knowledge and belief, correct. I confirm that I have completed this form as completely as possible and that I have attached / sent any required additional documentation.

Name (Block Capitals):	
Position:	
Date:	
Signature:	

When you have completed, checked and signed your Spectrum Application Notice, please send it, together with any additional information, to the Communications Commission.

Please submit the completed Notice to enquiries@iomcc.im. A signed hard copy of the completed Notice should also be submitted to:

Ms Lynda Lane
Regulatory Assistant
Communications Commission
Ground Floor, Murray House
Mount Havelock, Douglas
Isle of Man, IM1 2SF

Data Protection:

Personal data that you provide to us will be processed in accordance with the Data Protection Act 2002 of the Isle of Man and will only be used for the purposes of processing this application.

Annex 2: DRAFT Proposed Licence Variation

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

COMMUNICATION PROVIDER'S NETWORK

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

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).

PAYMENT OF FEES

3. A Communications Provider that is granted the use of a frequency allocation for the provision of satellite telecommunications 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.
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.
5. The appropriate Wireless Telegraphy licence fee shall be paid to Ofcom before the Wireless Telegraphy Act licence is granted.

Annex 3: DRAFT Licence to Provide Satellite Telecommunications Services



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

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DRAFT

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 5 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 fourth 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.

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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.

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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.

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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.

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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.

Annex 4: DRAFT Application for a Telecommunications Provider Licence



Application for a Telecommunications Provider Licence

[date]

APPLICATION FOR A TELECOMMUNICATIONS PROVIDER LICENCE

Evaluation Criteria and Approach for Applicants

- 1.1 This section provides guidance on how the Communications Commission (Commission) evaluates applications for telecommunications provider licences, which are issued under the Telecommunications Act 1984 (Act). A copy of the Act is available on the Commission's website. The Commission will evaluate your licence application in light of the broad guidelines set out in the Act, as summarised below.
- 1.2 According to Section 1 of the Act, the Commission must ensure that operators providing telecommunications services on the Island are able to 'finance the provision of those services'.
- 1.3 Section 1 of the Act 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 (including in particular, those who are disabled or of pensionable age) in respect of the prices charged for, and the quality and variety of, services provided and apparatus supplied.'
- 1.4 The Commission may refuse to issue a telecommunications provider licence if the applicant fails to demonstrate its viability as an on-going business or otherwise does not satisfy the above guidelines.
- 1.5 To assist the Commission in considering applications in a consistent manner, all applicants are requested to complete an application providing detailed information about the applicant, its resources (financial and other), its proposed business activities and other relevant information. The procedures adopted when considering the application will be consistently applied.
- 1.6 The Commission recognises the importance of establishing and implementing a licensing process that is clear, simple to understand and open to scrutiny by all stakeholders. The Commission's objective is to operate a licensing scheme that is capable of responding to technological and market developments, but is not arbitrary or biased.
- 1.7 The Commission may seek further information from the applicant or third parties in assessing an application. This could be in the form of additional documentation or management interviews. If the Commission considers that an applicant has withheld material information or provided materially false information, it may revoke any licence issued.
- 1.8 The licence may be issued as a new licence or as a modification to an existing licence.

Classes of Communications Provider Licence

- 2.1 The Commission may issue a (i) licence to offer telecommunications services of any kind, referred to as a Full Operator Licence; (ii) a licence to offer only internet and internet-related services, referred to as an Internet Service Provider Licence (ISP Licence); or (iii) a licence to provide satellite telecommunications services, referred to as an Earth Station Licence.
- 2.2 A Full Operator Licence is required for the provision of traditional fixed and/or mobile voice services. Data services (i.e. internet-related services) such as broadband and voice over internet protocol (VoIP) can be provided under an ISP Licence. An Earth Station Licence is required to provide satellite telecommunications services, where an operator does not hold another telecommunications licence encompassing those services. For additional guidance

on what services can be offered under each class of licence, prospective applicants should contact the Commission.

Full Operator Licence Term and Fees

- 3.1 A new Full Operator Licence would be of 15 years duration in the first instance. Thereafter, the licence shall continue in perpetuity, subject to revocation on 1 year's written notice.
- 3.2 A fee of £5,000 is payable upon issuance of a Full Operator Licence. On every anniversary thereafter, a fee of £5,000 pounds plus 0.5% of Turnover in excess of £1,000,000 must be paid. Turnover is defined as the total revenue generated by a licence holder in the course of its activities under its licence during the financial year ending immediately before the fee payment date.

ISP Licence Term and Fees

- 4.1 A new ISP Licence would be of 5 years duration in the first instance. Thereafter, the licence shall continue in perpetuity, subject to revocation on 1 year's written notice.
- 4.2 A fee of £500 is payable upon issuance of a licence. On every anniversary thereafter, a fee of £500 pounds plus 0.5% of Turnover in excess of £100,000 must be paid. Turnover is defined as the total revenue generated by a licence holder in the course of its activities under its licence during the financial year ending immediately before the fee payment date.

Earth Station Licence Term and Fees

- 5.1 A new Earth Station Licence would be of 5 years duration in the first instance. Thereafter, the licence shall continue in perpetuity, subject to revocation on 1 year's written notice.
- 5.2 A fee of £500 is payable upon issuance of a licence. On every anniversary thereafter, a fee of £500 pounds plus 0.5% of Turnover in excess of £100,000 must be paid. Turnover is defined as the total revenue generated by a licence holder in the course of its activities under its licence during the financial year ending immediately before the fee payment date.

Publication

- 6.1 In submitting an application you agree that, should a licence be granted, the Communications Commission may publish contact details for the licensee on the Communications Commission's website and/or in other relevant publications. The licence or contents thereof may also be published on the Commission website.

General Disclaimer

- 7.1 This guidance is not intended to be a complete or authoritative statement of the law. Only the official wording of Acts, Regulations and Orders, and the interpretation given by the Courts, are authoritative. The guidance notes cannot be taken as modifying the effect of the relevant statutes or the conditions of a licence. The Communications Commission reserves the right to alter or correct any part of this document.

Contact Information

8.1 Please provide the following contact information:

Name of Applicant:	
Address:	
Telephone Number:	
Fax Number:	
Email Address:	
Name of nominated point of contact for purpose of application:	
Nominated point of contact address:	
Nominated point of contact telephone number:	
Nominated point of contact fax number:	
Nominated point of contact email address:	

Opening Statement

9.1 Please describe your organisation and its objectives, the nature of your proposed services, the market for those services, and your organisation's capability to provide those services. The opening statement should clearly indicate whether you are applying for a Full Operator Licence or an ISP Licence or an Earth Station Licence, and be no longer than 500 words.

Past Applications, Licences and Compliance

10.1 If any of the below circumstances are applicable, please give details:

- (a) The applicant, or person or company associated with the applicant, is a current licensee of the Commission, or is licensed or authorised by Ofcom, controls an existing licensee, or is controlled by an existing licensee.
- (b) The applicant, or person or company associated with the applicant, has made any other application for a licence to the Commission (or Ofcom or any of its predecessor regulators – Oftel and the Radiocommunications Agency).
- (c) The applicant, or person or company associated with the applicant, is subject to any current or pending investigation by any statutory or regulatory or Government body in the Isle of Man, the UK or abroad in respect of any telecommunications related matter.

- (d) The applicant, or person or company associated with the applicant, has been subject to a statutory sanction or compliance procedure for contravening a condition of a licence or authorisation in the IOM, the UK or abroad.

10.2 Current or past investigations or sanctions will not necessarily prevent a successful licence application. However, the Commission will consider these as part of its responsibilities under Section 1 of the Act.

Business Plan and Financials

11.1 Section 1(1)(b) of the Act requires the Commission to ensure that a communications provider can finance the provision of its services, while Section 1(2) requires the Commission to act in a manner that best promotes the interests of consumers, purchasers and other users of telecommunications on the Island. The Commission considers these factors when evaluating a prospective communication provider's licence application. Please submit a business plan that includes the following information:

- i. Explanation of the services, target market, and marketing strategy.
- ii. Management structure and the name, role, relevant experience and qualifications of each member of the management team.
- iii. Details of ownership structure and directors.
- iv. Sources and evidence of finance/funding to operate the services.
- v. Financial Projections/forecasts based on reasonable assumptions that are logically applied and justifiable.
- vi. Actual and/or projected Profit and Loss accounts, balance sheets and cash flow forecasts.

11.2 The period covered in the above should be three to five years. Also, any underlying assumptions for marketing or financial projections must be explained. The business plan, exclusive of financial statements, should not be longer than 8 pages.

11.3 Business and financial information submitted as part of this application will be kept confidential by the Communications Commission.

11.4 The Commission reserves the right to revoke a licence if at any time any material statement made is found to be false and to have been made by the applicant or any member or officer thereof knowing it to be false.

Application Checklist

12.1 Please indicate below the items of documentation which are included as part of this application. All items are mandatory.

- | | |
|---|-------|
| 1. Contact Information | [Yes] |
| 2. Opening Statement | [Yes] |
| 3. Past Applications, Licences and Compliance | [Yes] |
| 4. Business Plan and Financials | [Yes] |
| 5. Signature and Declaration Page | [Yes] |

Signature and Declaration

13.1 Please complete this 'signature and declaration' page and submit it with your application.

I hereby apply to the Communications Commission for the grant of a telecommunications provider licence under the Telecommunications Act 1984 for

Name of Applicant Company: _____

and declare that the information given in this application and any additional documentation is, to the best of my knowledge and belief, correct. I confirm that I have completed this form as completely as possible and that I have attached / sent any required additional documentation.

Name (Block Capitals):	
Position:	
Date:	
Signature:	

When you have completed, checked and signed your application as required, please send it, together with any additional information, to the Communications Commission.

Applicants are requested to submit their application to enquiries@iomcc.im. A signed hard copy should also be submitted to:

Lynda Lane, Regulatory Assistant
Communications Commission
Ground Floor, Murray House
Mount Havelock, Douglas
Isle of Man, IM1 2SF
www.iomcc.im
Tel: +44 1624 677022

Data Protection:

Personal data that you provide to us will be processed in accordance with the Data Protection Act 2002 of the Isle of Man and will only be used for the purposes of processing this application.