



European Satellite Operators Association

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## *Satellites & The EU Regulatory Framework*

### *ESOA Market Access & Regulatory Working Group*

Brussels, 30 April 2008

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# Key Issues

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- ITU Relations
- Service Neutrality
- Technology Neutrality
- Licenses
  - Review
  - Fees
  - Regimes
  - Harmonisation
- EU selection process
- Co-ordination with other regulatory bodies



- The ITU-R regulations for international rights & technical rules apply *especially to the satellite sector*
- The ITU system of registering orbital slots & associated frequencies:
  - Should not be compromised
  - Works well through the role of managing administration of a MS
- Concerning the ITU allocation table:
  - Frequencies should be assigned according to this (note that Art 4.4 is intended for use in exceptional & limited cases only)
  - Respect the frequency band classification (exclusive, shared)
  - Align definitions (e.g. 40 radiocomm services are defined in art 1 of RR & 30 appear in the Frequency allocation table)
  - Consistency regarding service category (primary/ secondary) including protection of future stations
- National managing administrations have a crucial role to play



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## ITU relations (II)

ESOA favours:

- Explicit reference to the ITU framework in order to demonstrably ensure consistency of EC actions
- A consolidated approach, lead by ITU definitions & principles with additional EU definitions for electronic communications services
- A continued role for ITU national competency for MS that are the managing administrations



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# Service & Technology Neutrality (I)

## Service Neutrality (SN)

- Applies to electronic communications services, but should not override “Services” as defined within ITU categories;
- Service Neutrality is a totally independent concept from technology neutrality (e.g. Triple Play to Homes, Telephony & Broadband to mobile users)

## Technology neutrality (TN)

- Applying identical rules to different technologies creates the risk that the effect of the rules is different between the technology

### ***ESOA’s understanding of these concepts***

*Aim is to achieve equivalent treatment between technologies*

*Application should not harm interference environment for other services*

ESOA therefore favours:

- Additional language to clarify interpretation & application of these concepts
- Exception to the technology neutrality principle for reasons of compliance with international obligations or standards related to the use of frequencies
- Exclusion of change of use compared to the Frequency Allocation Table in case of spectrum trading
- Explicit recognition of the need for technical rules to protect satellite services against interference

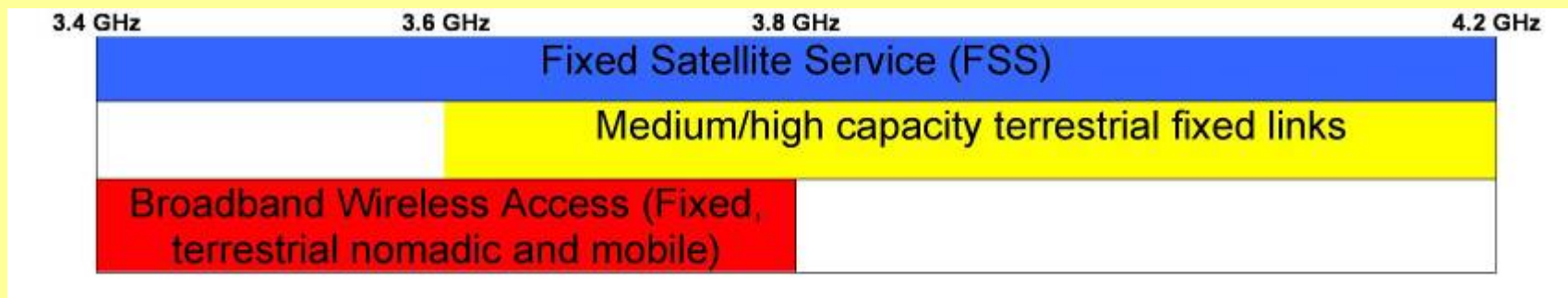


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## Risks of Imposing unlimited TN Example I: C-Band

Satellite Space-to-Earth links share frequency bands in Europe with terrestrial services but under specific conditions that prevent harmful interference to the often less strong satellite signals

### C-Band



*The C band satellite service has always shared with terrestrial fixed links by a process of coordination between radio stations*

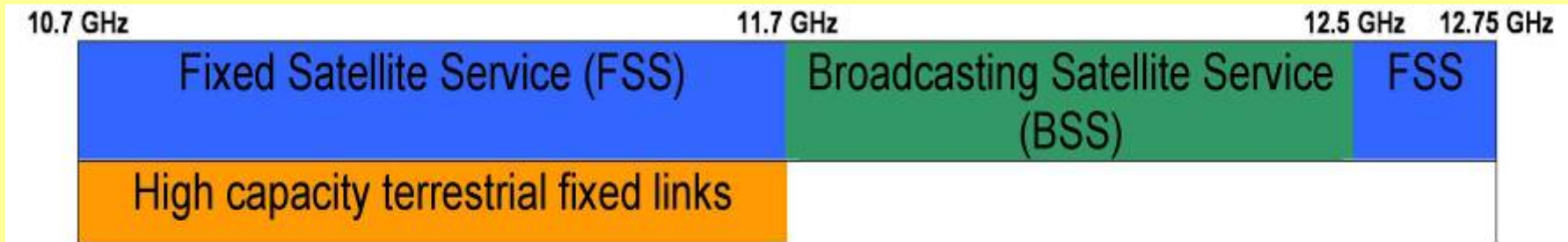
*The planned Broadband Wireless Access service, in the band 3.4 - 3.8 GHz, poses a threat to satellite services, due to the proposed change of technology in the band to wide-area terrestrial systems*



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## Risks of Imposing unlimited TN Example II: Ku-Band

### Ku-Band



*Satellite services in Ku band share with terrestrial fixed links in the band 10.7 - 11.7 GHz. However the introduction of (i) more intensive use & (ii) higher power by the terrestrial service poses a threat to Direct-To-Home reception of TV signals from satellites.*





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## Other Considerations In Imposing Neutrality: - Shrinking Satellite Spectrum - Identical Rules

### Satellite spectrum in Europe is shrinking

- Unlike for terrestrial services, satellite access to spectrum requires international harmonisation: this necessarily places satellite at a disadvantage when competing for spectrum
- In Europe, the terrestrial mobile sector sees disproportionate gains
- Large amounts of spectrum of the satellite sector are assigned to terrestrial services in the name of flexibility (in UHF TV, S, L or C Bands)
- Newly available spectrum (e.g. digital dividend) is not made accessible for satellite services

Application of identical rules to terrestrial & satellite technologies does not have the same impact on both

It has in effect severely limited spectrum access for satellite services

*Unequal access to spectrum shows this policy is not technology neutral & impacts competition in Europe*



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## Other Considerations In Imposing Neutrality: - License Reviews

### *Re-assessment of existing rights of use*

#### Satellites:

- Deliver international services
  - Re-assessment of national licences means a massive cost/ administrative burden
- Require huge upfront investment amortized over periods up to 20 years
  - Re-assessment threatens sunk costs & denies operators the legitimate & equal right to realise a return
- Are based on a 15-20 year business plan:
  - A 5 year review introduces substantial, detrimental business uncertainty

*Competing communications technologies & services do not have these features which are unique to satellite technology*

*The application of this process is therefore not neutral & as such should be reassessed*



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## Other Considerations In Imposing Neutrality: - License Fees

### **Fees**

- 'All shall pay fees' is not necessarily consistent with equal treatment
- Consistency is needed between numbering & spectrum fees – only the former recognizes fees are not always needed

### **Recommendation**

*Maintain the principle that fees are not required where only minimal risk of harmful interference or no scarcity exists*

*Introduce the same limiting language for spectrum fees as for numbering fees*

## *General Authorisation*

- Has consistently been favoured by the satellite industry as the most appropriate licensing regime for satellite services
- Member States should impose minimal conditions since the risk of harmful interference is minimized following international co-ordination
- Combination of ITU co-ordination & light licensing regimes plus free circulation of terminals reduces the need for individual grants of use as well as for pan-European selection



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## License Regimes/ Review/ Harmonisation - Commission Selection Process

### **Commission Selection Process**

- EU harmonisation of general authorisation regimes & conditions is totally distinct from any EU selection process
- Transnational services are not necessarily pan-European
- Pan-European selection should be strictly limited to very rare occasions
- Consistency in terminology & interpretations by ECJ is required on concepts of transnational/ pan-European/ cross border services

### **Recommendation**

*Lightest touch regulation for satellite services with minimal EU/ MS intervention only as necessary to control interference*

*Extension of certain aspects of the Services Directive (2006/123) to electronic communications: “mutual recognition of documentation” is particularly suited to the satellite sector*



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## Coordination with other Regulatory Bodies

- Existing bodies have proven their efficiency & adaptability (e.g. to EU enlargement)
  - System of mandates to CEPT works relatively well
- A complex institutional framework adds substantial administrative cost, delay & risk to already complicated co-ordination procedures
- Industry consultation is crucial
- Transparency & broader public participation in Committees

### ***Recommendations of Satellite Operators***

- Avoid overlaps & duplication between CEPT & EU - maintain consistency with CEPT undergoing reform
- Establish clear roles & responsibilities between institutions (including CoCom, RSPG, RSCoM)
- Affirm the duty to take into account industry views & comments including a “reply round”
- Allow stakeholders to participate or at least observe Committee meetings