

L.N. 139 of 2017

**ELECTRONIC COMMUNICATIONS (REGULATION) ACT
(CAP. 399)**

**Authorisation of Frequency Use (Provision of 2GHz Mobile
Satellite Services) (Amendment) Regulations, 2017**

IN EXERCISE of the powers conferred by article 47 of the Electronic Communications (Regulation) Act, the Minister for Competitiveness and Digital, Maritime and Services Economy, after consultation with the Minister for Finance and the Malta Communications Authority, has made the following regulations:-

1. The title of these regulations is the Authorisation of Frequency Use (Provision of 2GHz Mobile Satellite Services) (Amendment) Regulations, 2017, and these regulations shall be read and construed as one with the Authorisation of Frequency Use (Provision of 2GHz Mobile Satellite Services) Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 399.44

2. Regulation 2 of the principal regulations shall be amended as follows:

Amends
regulation 2 of
the principal
regulations.

(a) the definition "complementary ground components" shall be substituted by the following new definition:

" "complementary ground components" shall mean ground-based stations used at fixed locations, in order to improve the availability of mobile satellite services in geographical areas within the footprint of the system's satellite(s), where communications with one or more space stations cannot be ensured with the required quality";

(b) immediately after the definition "complementary ground components" there shall be added the following new definition:

" "ECC Report 233" means the Report published by the Electronic Communications Committee on its website, entitled "Adjacent band compatibility studies for aeronautical CGC systems operating in the bands 1980-2010 MHz and 2170-2200 MHz";

(c) immediately after the definition "the EU Decision" there shall be added the following new definition:

" "hybrid mobile satellite services" means services provided by a combination of one or more complementary ground components in conjunction with one or more space stations;" and

(d) in the definition "selected applicants" for the words "Solaris Mobile Limited" there shall be substituted the words "EchoStar Mobile Limited (previously known as Solaris Mobile Limited)".

Amends
regulation 3 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) The Authority shall grant an authorisation under these regulations to each of the selected applicants for use in Malta of the frequencies specified for that selected applicant in Article 3 of the Commission Decision for the provision of services by one or more space stations subject to the conditions set out in these regulations:

Provided that the grant for the provision of services by one or more space stations shall become effective on the date of its publication in the official website of the Authority:

Provided further that in issuing any such authorisation the Authority may provide for any objectively justified, non-discriminatory, proportionate and transparent conditions as it may consider necessary in the circumstances and as are in accordance with the EU Decision and the Commission Decision:

Provided further that any such authorisations shall be valid for a period of eighteen years commencing from the 13th May 2009.";

(b) in paragraph (b) of sub-regulation (2) thereof for the word "Solaris" there shall be substituted the word "EchoStar"; and

(c) in sub-regulation (3) thereof the proviso thereto shall be deleted and the following new proviso shall be added to paragraph (b) thereof:

"Provided that the payment of such fees shall be

without prejudice to any other fees as may be due with regard to the provision of electronic communications services or networks."

4. Regulation 4 of the principal regulations shall be amended as follows:

Amends regulation 4 of the principal regulations.

(a) the marginal note thereto shall be substituted by the words "Conditions of an authorisation for the provision of services by one or more space stations."; and

(b) in sub-regulation (1) thereof immediately after the word "authorisations" there shall be added the words "for the provision of services by one or more space stations".

5. Regulation 6 of the principal regulations shall be substituted by the following:

Substitutes regulation 6 of the principal regulations.

"Complementary ground components.

6. (1) The Authority shall grant an authorisation under these regulations to the selected applicants that request the Authority an additional authorisation for the right of use of radio spectrum for the provision of complementary ground components of mobile satellite systems subject to the conditions set out in these regulations:

Provided that in issuing any such authorisation the Authority may provide for any objectively justified, non-discriminatory, proportionate and transparent conditions as it may consider necessary in the circumstances and as are in accordance with the EU Decision.

(2) The Authority shall ensure that the authorisations for complementary ground components of mobile satellite systems are subject to the common conditions specified in Article 8(3) of the EU Decision, namely:

(a) the selected operators shall use the assigned radio spectrum for the provision of complementary ground components of mobile satellite systems pursuant to regulation 3(1);

(b) complementary ground components shall constitute an integral part of a mobile satellite system and shall be controlled by the satellite resource and network management mechanism; they shall use the same direction of transmission and the same portions of frequency bands as the associated satellite components and shall not increase the spectrum requirement of the associated mobile satellite system;

(c) independent operation of complementary ground components in case of failure of the satellite component of the associated mobile satellite system shall not exceed eighteen months;

(d) rights of use and authorisations shall be granted for a period of time ending no later than the expiry of the authorisation of the associated mobile satellite system.

(3) Without prejudice to the common conditions specified in the EU Decision, the services to be provided by the selected operators shall be hybrid mobile satellite services.

(4) The selected operators enjoying an authorisation granted by the Authority shall ensure that in operating their complementary ground components no harmful interference is caused to other systems operating in other adjacent frequency bands, in particular the bands 1980-2010 MHz and 2170-2200 MHz:

Provided that the selected operators enjoying an authorisation for the provision of aeronautical only hybrid mobile satellite services shall implement those mitigation measures identified in ECC Report 233 in order to ensure coexistence with other systems operating in adjacent frequency bands:

Provided further that the Authority has the right to impose additional restrictions in the authorisation granted pursuant to regulation 5(1) to address coexistence issues with other systems operating in adjacent frequency bands.

(5) The selected operators enjoying an authorisation for the provision of aeronautical only hybrid mobile satellite services shall implement complementary ground components compliant with ECC Report 233:

Provided that the Authority may consider requests submitted in writing by the selected operators for the implementation of complementary ground components having technical parameters least restrictive than those established in ECC Report 233. The Authority shall base its considerations on the results of adjacent band compatibility studies which are to be made available by concerned selected operators."

6. Schedule I to the principal regulations shall be substituted by the following:

Substitutes
Schedule I to
the principal
regulations.

"SCHEDULE I

Regulation 3(3)

1. Fees payable for radio spectrum used by one or more space stations for the provision of mobile satellite services

a. One time administrative fee payable within one month from the date of publication of an authorisation in accordance with regulation 3(1) €2,000

b. Annual fee to be paid on or before the anniversary of the authorisation €1,000

2. Fees payable for radio spectrum used by complementary ground components for the provision of hybrid mobile satellite services:

a. Annual usage fees for radio spectrum for each paired 5 MHz channel to be paid on or before the anniversary of an authorisation for the provision of service-neutral hybrid mobile satellite services:

i. for the first five years of an authorisation which term shall commence on the commencement date defined in the authorisation €33,000

ii. for the remaining duration of an authorisation €98,000; or

b. Annual usage fees for radio spectrum for the provision of aeronautical only hybrid mobile satellite services 13,000".

