



Procedures for the management of satellite network filings

Reference:

MCA/O/16-2656

Publication Date:

28 December 2016

Table of Contents

1.0	Scope and Purpose	1
2.0	Introduction to the coordination procedures and other regulatory requirements of the ITU.....	2
2.1	Coordination procedures for non-planned bands.....	2
2.1.1	Advance Publication Information (API).....	3
2.1.2	Coordination request	4
2.1.3	Notification of Frequency Assignments.....	5
2.2	The planned bands	8
2.2.1	Use of the planned bands in Appendix 30 and 30A relating to the Broadcasting Satellite Service.....	8
2.2.2	Use of the planned bands in Appendix 30B relating to the Fixed Satellite Services	9
2.3	Other regulatory requirements.....	10
2.3.1	Administrative due diligence (Resolution 49)	10
2.3.2	Bringing into Use	11
2.3.2	Responsibilities of the Applicant.....	11
3.0	Submission of applications for satellite network filings to the MCA	12
3.1	Application criteria	12
4.0	Due diligence requirements and monitoring	13
4.1	Due Diligence Requirements	13
4.2	Requirement for administrative control of the network.....	16
4.3	Milestone requirements and progress monitoring	16
5.0	Evaluation of applications	17
5.1	Evaluation for non-planned frequency bands	18
5.2	Evaluation for the planned frequency bands	18
6.0	The satellite filing procedure	19
6.1	Procedure relating to non-planned bands	20
6.1.1	Advance Publication Information (API).....	20
6.1.2	Request for coordination	20
6.1.3	Notification	20
6.1.4	ITU administrative due diligence – Resolution 49	21
6.1.5	Bringing into use.....	21
6.2	Procedure relating to the planned bands	21
6.2.1	Unmodified planned assignments (AP30, 30A and 30B)	22
6.2.2	Part A or Part B or AP30B submission	23
6.3	Special sections publications.....	24
7.0	Authorisation of requests to conduct coordination directly.....	25

8.0	Other requirements.....	26
9.0	Fees.....	27
9.1	ITU fees.....	27
9.2	MCA fees.....	27
10.0	Outer Space Operations and Launch License	28
11.0	Transfer of satellite network filings between two operators	28
12.0	Cancellation, relinquishment and reassignment by the MCA of Maltese satellite networks filings.....	29
12.1	General.....	29
12.2	Cancellation and reassignment due to non-compliance with due diligence requirements	30
12.3	Other reasons for cancellation and reassignment	31
13.0	Changes to the ITU satellite procedures made by a competent World Radiocommunication Conference (WRC).....	31
Annex 1:	Malta’s planned satellite assignments.....	32
	Slot at 22.8 degrees East	32
	Slot at 3 degrees West	32
Annex 2:	Mandatory Information Required	33
	Part A – Applicable to the Planned and the Non-planned bands.....	33
	Part B – Applicable to the planned bands only	35

Note: This document provides information on the procedures (“Procedures”) on the management and processing of satellite filings by the Malta Communications Authority (MCA). The Procedures are subject to change without notice and the MCA shall not accept any liability consequent to any such changes.

1.0 Scope and Purpose

This document describes the procedure which must be followed by an applicant, in the form of any company, entity or organisation, that submits an application through Malta, for the management and processing of a satellite filing. It also includes details on the necessary coordination procedures and registration to be undertaken, in order to achieve international recognition under the relevant provisions of the Radio Regulations of the International Telecommunication Union (ITU)¹.

In particular, this document presents the roles and responsibilities pertaining to the Malta Communications Authority (MCA) and to the applicant with regard to the different types of applications that are permitted under the ITU Radio Regulations².

Any satellite filing with Malta shall be made in compliance with any international legal instrument and in particular the ITU Regulations (including the ITU Radio Regulations (RR)) valid at the time of the application.

Any reference in this document to the ITU RR and any applicable international legal provisions is provided for information purposes only. While as far as the MCA is aware, all references are correct, it is recommended that applicants seek advice prior to making an application in accordance with these procedures and undertake such investigations as they may deem necessary.

Satellite networks for which the MCA is the notifying administration must be operated in accordance with the relevant treaties to which Malta is a signatory or a ratifier. These include the following United Nations treaties and principles:

- a) The 1968 Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (Rescue Agreement);
- b) The 1972 Convention on International Liability for Damage Caused by Space Objects (Liability Convention).

The MCA represents Malta as Member State of the ITU and acts as Malta's notifying administration under the ITU procedures.

This procedure is limited to satellite filings under the authority of Malta. Any other license required to operate the satellite network (including the ground segment) will be covered by other instruments falling outside the scope of this document.

¹ The 2012 edition of the Radio Regulations (RR) apply unless superseded by subsequent editions.

² The Radio Regulations (RR) have international treaty status and are binding on ITU Member States. The RR govern the use of the radio-frequency spectrum and the geostationary-satellite and non-geostationary-satellite orbits.

It should be noted that this procedure will be governed solely by Maltese Law, and any legal international instrument by which Malta is bound, and is subject to the exclusive jurisdiction of the competent Maltese Courts and, or tribunals, however so described.

The MCA will under no circumstances be liable for any losses or damages, however so described, that may result or arise out of the potential non-acceptance of an application, the non-submission of such filings and if the submission is, for whatever reason, unsuccessful or is delayed and ITU deadlines are missed.

2.0 Introduction to the coordination procedures and other regulatory requirements of the ITU

The Radio Regulations (or “RR”) contain procedures leading to a recording in the Master International Frequency Register³ (MIFR) for space services relating to frequency allocations⁴ that are either covered by a ‘*plan*’, or that are accessible on a ‘*first-come-first-served basis*’.

An assignment in a non-planned band results from an application by an operator for an assignment in a given band, with a specified coverage and a particular orbital position. Such applications are, in general, filed on a first-come-first-served basis and based on the principle that rights are acquired through negotiations with other administrations - coordination agreements.

In the planned bands⁵, equitable access to spectrum is guaranteed by *a priori* planning normally carried out at a world or regional planning conference. The assignments or allotment plans form part of the ITU Radio Regulations.

2.1 Coordination procedures for non-planned⁶ bands

There are three sequential basic steps for assuring international recognition of satellite networks in non-planned bands, *i.e.*:

- a) advance publication information;
- b) request for coordination; and
- c) notification.

³ The MIFR is the ITU database in which frequency assignments are registered (see Article 8 (“status of frequency assignments”) and Article 11 (“notification and recording of frequency assignments”) of the ITU RR).

⁴ As defined in No. 1.16 of the ITU RR.

⁵ See also definition under No. 1.17 of the RR. For satellite services see also ITU RR Appendices 30, 30A and 30B.

⁶ Satellite allocations outside the scope of Appendix 30, 30A and 30B.

The coordination procedures of assignments and their notification are described in Article 5, Article 9 and Article 11 (respectively) of the ITU Radio Regulations. The below sub-sections are intended to provide some information on each of these above steps.

2.1.1 Advance Publication Information (API)⁷

The first stage of the coordination process is the submission by a national administration to the ITU Radiocommunication Bureau (ITU-BR) of a general description of the network or system for advance publication in the BR International Frequency Information Circular (BR IFIC)⁸. This stage is called the Advance Publication Information (API).

The BR IFIC provides information to other national administrations on developments in space systems, especially those that have the potential to cause interference. The date of receipt by the ITU of the API marks the start of the regulatory period, but does not establish the regulatory precedence of the network. Currently, satellite networks⁹ are required to be brought into use within seven (7) years of the date of receipt by the ITU of the API¹⁰. An API must be supplied not earlier than seven (7) years and preferably not later than two (2) years before the planned date of bringing into use of the network or system. There are two cases where the API is to be submitted:

- a) The first is where frequency coordination under the procedure in Section II of Article 9 of the Radio Regulations is required. In this case the information comprises a general description of the proposed satellite network or system¹¹.
- b) The second case is where frequency coordination under the procedure in Section II of Article 9 of the Radio Regulations is not required. In this case the information comprises a more complete description of the proposed satellite network or system.

Further details can be found in Article 9, Section I of the Radio Regulations.

⁷ Please also refer to BR Circular Letter CR/401 dated 19 May 2016, which provides transitional measures for the elimination of advance publication information filings by administrations for frequency assignments to satellite networks and systems subject to Section II of Article 9 (<http://www.itu.int/md/R00-CR-CIR/en>).

⁸ As required by Nos. 9.1 to 9.5 of the ITU RR.

⁹ 'Satellite network' defined under No. 1.112 of the RR.

¹⁰ Except in the planned bands of Appendix 30, 30A and 30B, where this period is eight (8) years (see Section 2.2.1 below).

¹¹ 'Satellite system' defined under No. 1.111 of the RR.

2.1.2 Coordination request

Before an administration can notify the ITU-BR, or bring into use a frequency assignment, it must effect coordination with those administrations that are identified as being affected by the said assignment. Coordination, as described in Section II of Article 9, is a formal regulatory obligation both for an administration seeking recognition of a frequency assignment for its network and for an administration whose existing or planned services may be affected by that assignment. An agreement arising from coordination confers certain rights and imposes certain obligations on the administrations that are parties to that agreement.

Coordination is required in all cases except when Article 9 of the Radio Regulations does not state that coordination is required or when an unmodified assignment in a planned band (Appendix 30, 30A or 30B of the Radio Regulations) is brought into use.

Where coordination is required, it comprises the submission of the technical characteristics of the proposed satellite network in the ITU software format together, in some cases, with a list identifying administrations with which coordination is required. This "Request for Coordination" submission (then published under the special section Coordination Request-C (or CR/C) of the BR IFIC) can be sent to the ITU-BR at the same time as the API, although the ITU-BR will not consider the Request for Coordination as having been received until six (6) months after the date that the ITU-BR received the API. The Request for Coordination information must be received by the ITU-BR within two (2) years of receipt of the API, otherwise the filing will be cancelled¹² and the submission will be regarded as a new API.

Receipt by the ITU-BR of a Request for Coordination establishes the list of administrations with whom coordination is to be affected (see RR 9.27 and RoP 9.6D).

The ITU-BR will examine the API information provided by the notifying administration and identify any other administrations (see RR No. 9.27) with which coordination may need to be effected and include the names of these other administrations in the publication of this information in the BR IFIC.

Within four (4) months of the publication of the BR IFIC an affected administration (identified above) must respond by either agreeing to the Request for Coordination or disagreeing and providing information as to its own assignments on which the disagreement is based.

¹² All information submitted to the ITU prior to this date will be disregarded.

The affected administration may use any appropriate means to resolve the matter and reach a coordination agreement with the administration submitting the Request for Coordination. The results of the coordination agreement will be communicated to the ITU-BR. If this agreement results in modifications to the published characteristics of the respective networks, these modifications will also be published in the BR IFIC.

For effecting coordination, the frequency assignments which are to be taken into account in the coordination process¹³ are those:

- a) in the same frequency band as that of the proposed assignment;
- b) which belong to the same service or another service to which that band is allocated with equal rights or with a higher category allocation;
- c) which are in conformity with the Radio Regulations; and
- d) which are either recorded in the MIFR or coordinated under the provisions of the Radio Regulations or are themselves under coordination but have regulatory precedence over the proposed assignments.

Frequency assignments of a concerned satellite network are recognised by prior filed satellite networks¹⁴ by virtue of the coordination agreements secured between the respective satellite networks.

Should the required coordination against any assignments of prior filed networks, or those recorded in the MIFR, not be completed before the expiry of the seven year regulatory period of the concerned satellite network and its assignments, the concerned satellite network can be brought into use and operated on a non-interference and non-protection basis in respect of the other satellite networks and their assignments.

2.1.3 Notification of Frequency Assignments

General Remarks

The notification of a frequency assignment to the ITU-BR in accordance with Article 11 of the Radio Regulations is the final regulatory step leading to their recording in the MIFR. The provisions relating to notification of frequency assignments are primarily stipulated in Article 11 of the Radio Regulations, except for certain services which affect or which are related to the planned assignments.

¹³ (see No. 9.27)

¹⁴ Those whose request for Coordination information was received by the BR, or whose assignments are recorded in the MIFR, at an earlier date.

As specified in Nos. 11.2 and 11.9 of the Radio Regulations, any frequency assignment of transmitting and receiving stations need to be notified to the ITU-BR, for example:

- if the use of the assignment is capable of causing harmful interference to, or capable of receiving harmful interference from, any station, of another administration;
- if the assignment is to be used for international radiocommunications;
- if the assignment is subject to the coordination procedure of Article 9;
- if international recognition is required for that assignment.

It is generally safe to assume that all satellite assignments related to space services need to be notified.

Under No. 11.44.1, complete notification information constituting a “receivable notice” in accordance with the ITU Rules of Procedure¹⁵, must be received by the ITU-BR before the end of seven years from the date of receipt of API under No. 9.1¹⁶.

For assignments which are subject to Sub-Section IA of Article 9, *i.e.*, those “satellite networks or satellite systems that are not subject to coordination procedure under Section II¹⁷”, there is no requirement to submit a Request for Coordination filing¹⁸. The notification procedure for space stations¹⁹ can generally be initiated upon the completion of the API procedure (see Sub-Section IA of Article 9).

For assignments which require coordination under Article 9, Section II, the notification procedure for space stations can be initiated upon the completion of the coordination procedures.

Initiating Notifications

In order to initiate the notification procedure an administration will, in accordance with No. 11.15, provide the relevant characteristics as set out in Appendix 4 of the Radio Regulations. The ITU-BR will examine the notice that it receives, and if the notice does not contain the mandatory information as specified in Appendix 4 of the Radio Regulations, the ITU-BR will request the notifying administration to provide the missing information, failing which the notice is returned in accordance with No. 11.27.

¹⁵ <http://www.itu.int/pub/R-REG-ROP/en>.

¹⁶ Eight years for the planned bands under Appendices 30, 30A and 30B (see section 2.2.1 below).

¹⁷ Section II, Article 9

¹⁸ This is the case, for example, for certain type of satellites such as experimental, amateur or scientific satellites operating in certain frequency bands.

¹⁹ Space stations are defined in Article No 1.64 of the RR.

On receipt of a complete notice the ITU-BR will publish its contents and the date of receipt in the BR IFIC. This constitutes the acknowledgement to the notifying administration of receipt of the notice.

The ITU-BR will then examine the notice received. If the ITU-BR confirms that this is in conformity with the Radio Regulations (No. 11.30) it will record the relevant assignment in the MIFR.

An important feature of this procedure is that the MIFR, besides providing the basic characteristics of the assignment, provides an indication of each assignment's status with respect to the other assignments and reflects the findings issued at the time when it was recorded in the MIFR.

Bringing into Use of GSO networks or systems

A frequency assignment to a space station in the geostationary-satellite orbit shall be considered as having been brought into use when a space station in the geostationary satellite orbit with the capability of transmitting or receiving that frequency assignment has been deployed and maintained at the notified orbital position for a continuous period of ninety days. The MCA is required to notify the Bureau within thirty days from the end of the ninety day period. The MCA takes no legal responsibility whatsoever of any delay which may be caused in the notification to the BR of this notification and will rely solely on the initiative of the applicant to solicit the MCA to make such notification. The MCA will endeavour to do its best to notify the BR within five days once it receives such request by the applicant.

Unfavourable Findings due to not Completing Coordination

If a notice is returned by the ITU BR due to an unfavourable finding (for example when coordination is not complete with the satellite network or system of another administration), the MCA can apply No. 11.41 to request the BR to record the assignment into the MIFR on a non-interference and non-protection basis.

Where an applicant fails to complete coordination successfully, the applicant (e.g. satellite operator) must demonstrate to the MCA that all actions have been taken to complete coordination with any affected administration, and it must accept, by notifying the MCA in writing, that the recording of such assignment under 11.41 is on a non-interference and non-protection basis.

Competing Maltese Filings (see Section 5)

In the case of two competing satellite filings registered in Malta's name, the junior (i.e. most recent) filing must complete coordination with the most senior filings. In case that such coordination is not completed with the seven years regulatory period, the MCA may request the BR to record the junior filing in the MIFR under RR No. 11.32 provisions in respect to the other senior Maltese filings. In such case, the operation of the assignments of the junior filing will be treated as if the recording was

made under No. 11.41 of the ITU RR; which means that it must not cause interference nor request protection of its assignments from the senior Maltese filings until coordination is completed. The applicants or licensees of the two Maltese filings must complete coordination and both operators must make every effort in completing such coordination.

2.2 The planned bands

The Radio Regulations contain three Appendices dealing with planned bands and which contain the associated regulatory procedures and technical annexes for these bands as follows:

- Appendix 30, setting out the provisions for all services and associated plans and list for the broadcasting-satellite service (BSS) in the range 11700-12500 MHz²⁰;
- Appendix 30A, setting out the provisions and associated plans and list for feeder links for the BSS in the range 17300-17800 MHz²¹; and
- Appendix 30B, setting out the provisions and associated plan for the fixed-satellite service (FSS) in the frequency ranges 4500-4800 MHz, 6725-7025 MHz, 10700-10950 MHz, 11200-11450 MHz and 12750-13250 MHz.

Under these Appendices each country has a pre-assigned GSO orbital position and related frequency assignments and characteristics. Those which are allocated to Malta are listed in Annex 1 of this document.

In each of these Appendices, it is possible to modify the plan, either by changing the characteristics of an assignment, or by making an additional use of the pre-assigned GSO orbital position. In either of these cases, there are specific procedures, in the relevant Appendix, for coordination and notification of the changes made to the plan. It should be noted that the procedures for making changes to the plan in Appendix 30B are different from those in Appendix 30 and Appendix 30A.

2.2.1 Use of the planned bands in Appendix 30 and 30A relating to the Broadcasting Satellite Service

Under Appendix 30 and Appendix 30A, a “Part A” publication represents a request for coordination of an amendment to a plan. It must be received by the ITU-BR not earlier than eight years and not later than two years before the proposed change to the plan is brought into use. Once coordination has been completed, the final characteristics of the plan are submitted to the ITU.

²⁰ The frequency band refers to countries within Region 1.

²¹ The frequency band is relevant to countries within Region 1 and within Europe.

In a similar way to the non-planned bands, the process continues with the notification, where the details of the new assignments are examined by the ITU BR. If the findings are favourable these assignments are recorded in the MIFR.

2.2.2 Use of the planned bands in Appendix 30B relating to the Fixed Satellite Services

Entering Assignments in the List of Appendix 30B

Before the orbital position and frequency resources of an allotment under Appendix 30B can be utilised by a satellite system, the national allotment has to be converted into an assignment through application of the procedures of Article 6²² of Appendix 30B. Those assignments that have a favourable finding by the ITU-BR are recorded in the List²³, and they are entitled to protection against systems whose assignments are recorded in the List at a later date.

Additional systems can also be included in the List after successful application of the relevant procedures of Article 6 of Appendix 30B. In the context of this Appendix, an additional system is a system for which the assignments are not the result of conversion of an allotment into assignments. When an administration submits an additional system, the allotment of that administration in the Plan is retained.

For any action undertaken, an administration shall, not earlier than eight years and not later than two years before the planned date of bringing an assignment into use, send to the ITU-BR the information in accordance with Appendix 4, Annex 2 of the Radio Regulations. The ITU-BR shall then identify those administrations whose territories have been included in the service area of the assignment under examination. The notifying administration will seek agreements of the affected administrations.

Once coordination is sought and agreements have been reached, the administration proposing the new or modified assignment will request the ITU-BR to have the assignment being recorded in the Appendix 30B List indicating the final characteristics of the assignment.

²² Article 6: "Procedures for the conversion of an allotment into an assignment, for the introduction of an additional system or for the modification of an assignment in the List".

²³ The List is called "Regions 1 and 3 List of additional uses", and its assignments must be compatible with the assignments in the Plans.

Notification and Recording of Assignments in the MIFR

Article 8²⁴ of Appendix 30B describes the procedures that administrations need to follow for the notification and recording in the MIFR of assignments registered in the Plan of Appendix 30B.

Article 8.1 of Appendix 30B states that any assignment for which the relevant procedure of Article 6 of Appendix 30B has been successfully applied shall be notified to the ITU-BR using the relevant characteristics listed in Appendix 4 of the RR, not earlier than three years before the assignments are brought into use. If this has not been received (Article 8.2 of Appendix 30B) by the ITU-BR within the eight-year period mentioned in Article 6.1 of Appendix 30B, the assignments in the List shall no longer be taken into account by the ITU-BR and administrations.

When the examination with respect to Article 8.9 of Appendix 30B leads to a favourable finding, the assignment shall be recorded in the MIFR.

2.3 Other regulatory requirements

The status given to each assignment recorded in the MIFR derives from the successful application of the relevant coordination procedures and the resulting coordination agreements. However, the status is conditional on:

- the assignment being brought into use within a defined regulatory time limit (see No. 11.44.1 of the Radio Regulations);
- the submission of Annex 4 coordination and notification information (Annex 4 of Appendix 30B of the RR where applicable); and
- due diligence information (ITU Resolution 49, see section 2.3.1), where applicable, being submitted within the defined regulatory time limit.

As required by No. 11.44.1 of the Radio Regulations, the bringing into use of the assignments and receipt by the ITU-BR of notification information and Resolution 49 data must all have occurred before the expiry of the seven year regulatory period. Failure to do this will normally result in the filing being cancelled by the ITU-BR.

2.3.1 Administrative due diligence (Resolution 49)

The primary reason for requiring this due diligence information (see Annex 2 Resolution 49 of the ITU RR) is to avoid the reservation of orbital resources without actual use.

²⁴ Article 8: "Procedure for notification and recording in the Master Register of assignments in the planned bands for the fixed-satellite service".

In the majority of cases, for proposed networks in the fixed-satellite service (FSS), mobile-satellite service (MSS) and broadcasting-satellite service (BSS), the submission of due diligence information to the ITU-BR is required in accordance with ITU Resolution 49 of the Radio Regulations.

This Resolution requires administrations to impose certain administrative due diligence requirements on satellite networks for which they act as the notifying administration, including specific information relating to the contractual status of the satellite and launch vehicle. Therefore, before registering a prospective system with the ITU-BR, it is incumbent on an administration to satisfy itself that there is a realistic likelihood that the satellite will be launched and will not block a valuable orbital slot or frequency assignment because it subsequently fails to be developed. It is also incumbent on an administration to monitor progress against pre-specified milestones for the deployment of the satellite network.

The due diligence information required is set out in Annex 2 of Resolution 49 and includes specific details of the satellite network operator and details of the API and coordination request publications. The information must also include details of contractual undertakings related to the construction and launch of the relevant satellites. The information should be provided to the ITU-BR as early as possible before bringing into use of the frequency assignment, but in any case it must be submitted before the end of the seven year period established as a limit to bringing into use a satellite network for non-planned bands.

2.3.2 Bringing into Use

Where notification occurs before an administration brings the assignments into use, the administration must inform the ITU-BR within 30 days of the date when the network's frequency assignments have been brought into use.

2.3.2 Responsibilities of the Applicant

The applicant must submit this information no less than 30 days before the expiry of the above deadline. The MCA will not issue any notice in this respect. It is the responsibility of the applicant to take actions in submitting this information to the MCA in time and before any ITU deadlines driven by the ITU RR.

The MCA will strive to do its best to turn around any of the above request to be submitted to the ITU-BR to the shortest possible time and potentially within fifteen (15) days of receipt of such information. However, the MCA will not take any responsibility whatsoever of the delays that may be incurred in the submission of this information to the ITU-BR.

3.0 Submission of applications for satellite network filings to the MCA

Applications and all related correspondence relating to satellite networks filings in planned and non-planned bands shall be submitted by the applicant to the MCA in electronic format and in accordance with the format required by the ITU Space Services Department to the following address:

The Chief of Spectrum Management & Technology
Malta Communications Authority
Valletta Waterfront
Pinto Wharf
Floriana FRN 1913
Malta

Tel: +356 2133 6840
Fax: +356 2133 6846
Email: satellite.mca@mca.org.mt

Prior to submitting an application, it is advisable that interested companies or organisations enter into discussions with the MCA. These discussions should lead to a high level understanding of the project in question and the relevant activities, and procedures that will need to be followed.

A satellite network filing can only be submitted to the ITU by an administration of an ITU Member State. As the notifying administration for Malta, the MCA will only file a satellite network application to the ITU on behalf of an applicant whose satellite network(s) meet the application criteria published by the MCA²⁵ and which is consistent with the ITU Radio Regulations.

The MCA reserves its right not to accept an application requesting submission of an ITU satellite filing. The MCA will, on a best effort basis, respond with a notice to the applicant within 30 days from acknowledgement of receipt of a formal request.

3.1 Application criteria

Applicants must establish, to the satisfaction of the MCA, that they have the required technical, financial and legal credentials to construct, launch and operate the proposed satellite system in conformity with their business plan.

²⁵ Section 3.1 of this document.

The MCA needs to be satisfied with the content of the management and technical due diligence documents and reports provided by the applicant, as defined for each stage in section 4 of this document. The MCA will also need to be satisfied that the application is consistent with, in particular, the ITU table of frequency allocations.

Foreign applicants must at least be registered in Malta as an overseas company in accordance with Maltese Law.

Any application must be signed by a duly authorised officer of the company or organisation and must contain all necessary data required to support the application including, in particular, an undertaking that the company or organisation will pay the relevant costs in relation to ITU filing fees and MCA's fees as in section 9 of this document.

Any application should meet the requirements and processes as described in the ITU Radio Regulations, in this procedure and in particular those presented in section 2 of this document.

Filing data is to be provided in electronic database format utilising the latest version of the ITU Space Services software²⁶.

The MCA will, on a best effort basis, respond to the applicant within 30 days from the date of acknowledgement of receipt of the formal request. The MCA may decide not to submit any satellite filing to the ITU, even if these meet the given criteria in these procedures.

4.0 Due diligence requirements and monitoring

4.1 Due Diligence Requirements

GENERAL

ITU Resolution 49 requires national administrations to make submissions to the ITU in respect of the construction and launch (including timings) of their satellite networks. This Regulation further places a number of obligations on national administrations as part of the ITU due diligence requirements. The purpose of these due diligence requirements is to ensure that filings are only submitted to the ITU where there is a reasonable prospect that the proposed network will be brought into operation within the relevant time period²⁷.

²⁶ <http://www.itu.int/ITU-R/go/space-software/en>.

²⁷ The ITU-BR relies on the confirmation provided by administrations, under No. 11.47 of the Radio Regulations that a frequency assignment has been brought into use, to assess compliance with the regulatory time period set out in No. 11.44. The latter provision states that the notified date of bringing into use of any assignment to a space station of a satellite network will not be later than seven years

It also serves to address the problem of reservation of orbit and spectrum capacity without actual use and has an impact, together with other relevant mechanisms, in reducing paper filings and in bringing more transparency to the filing process. It should be noted that national administrations are required to submit the information requested under Resolution 49 to the ITU as early as possible but in any instance **before the established *bringing into use date***.

In addition to the requirements of Resolution 49, the MCA requires information from applicants, as set out in Table 1 hereof, for the purposes of due diligence in order to be satisfied that a proposed satellite network has an adequate financial backing, that all relevant commercial and other contracts are in place or are about to be entered into and that there is a reasonable probability that the network will be brought into operation.

The MCA reserves the right not to accept a request to submit a filing to the ITU, and that it will, on a best effort basis, respond to the applicant within 30 days from the date of acknowledgement of receipt of the formal request.

REQUIRED INFORMATION

The following deliverables, where appropriate, are required to be provided to the MCA at the following stages of the process. The deliverables set out in Table 1 are required for both non-planned and planned bands. The stages described in Table 1 as Stages 3, 4 and 5 may occur in a different order than as described depending on how the process proceeds.

Unmodified planned bands must meet the deliverables in Table 1 and Table 2.

Stage	Deliverable
Stage 0, <i>Before the submission of application</i>	Initial discussions between an applicant and the MCA.
Stage 1, <i>API submission</i> ²⁸	The information requested in Annex 2 of this document together with the fees as in section 9.2. A submission of an API does not infer any right whatsoever to the applicant to advance to the subsequent stages of the process as detailed here in this table or in this document, or any obligation on the MCA to make additional submissions to the ITU.

following the date of receipt by the ITU-BR of the complete API information under No. 9.1 or 9.2 of the Radio Regulations. Any frequency assignment not brought into use within the required period will be cancelled by the ITU-BR after informing the relevant administration.

²⁸ Please also refer to BR Circular Letter CR/401 dated 19 May 2016, which provides transitional measures for the elimination of advance publication information filings by administrations for frequency assignments to satellite networks and systems subject to Section II of Article 9 (<http://www.itu.int/md/R00-CR-CIR/en>).

Stage	Deliverable
<p>Stage 2, <i>At the request for coordination submission</i></p>	<ol style="list-style-type: none"> 1. A full project report showing the financial, contractual and technical status of the project against the satellite construction milestones specified in the business model. 2. Interference analysis (see Article 9, Section II of the Radio Regulations) and a list of those identified administrations and networks with which coordination will be required. 3. A report specifying any update to the information contained in the deliverables submitted in Stage 1. <p>A submission of a Request for Coordination does not infer any right whatsoever to the applicant to advance to the subsequent stages of the process as detailed here in this table or in this document, or any obligation on the MCA to make additional submission to the ITU.</p>
<p>Stage 3, <i>Before the intended launch of a satellite network or system</i></p>	<ol style="list-style-type: none"> 1. Report specifying the status of the coordination. 2. Suitability of applicant's insurance cover. 3. A copy of the relevant construction contract. 4. A copy of the relevant launch services contract²⁹ or a copy of a contractual agreement for borrowing, leasing or buying an in-orbit satellite that will be placed in the given orbital location before the expiry of the ITU regulatory time period of the filing. 5. Clear evidence of the completion of the Critical Design Review (CDR) in accordance with either the construction of new satellite(s), or the modification of existing satellite(s). The relevant documents shall be signed by the satellite manufacturing/modification company and shall indicate the date of the completion of the CDR. This is not required if the operator will utilise an existing in-orbit satellite which will instead be placed in the given orbital location before the expiry of the ITU regulatory time period of the filing. 6. Confirmation that the applicant has been granted or is in the process of being granted a licence or authorisation for the earth station feeder-links and Telemetry, tracking, and command (TT&C). <p>The MCA reserves its right to suspend or cancel, as per ITU provisions, assignments which are no longer being operated.</p>

²⁹ With the prior consent of the MCA, this may be provided no later than six months prior to the planned launch date.

Stage	Deliverable
Stage 4, <i>At the bringing into use and recording of the assignment in the MIFR (requested by the operator)</i>	<ol style="list-style-type: none"> 1. Confirmation of a successful launch. 2. Confirmation of the number of satellites required to bring the system into operation. 3. Confirmation of the frequency assignment(s) intended to be brought into use.
Stage 5, Before submission of Resolution 49 data by the MCA to the ITU-BR	<ol style="list-style-type: none"> 1. Updated full project report showing progress against the milestones. 2. Provide all necessary information required under Resolution 49.

Table 1 - Due diligence requirements

Stage	Deliverable
Before bringing into use an unmodified planned assignment	Demonstration that the technical characteristics conform with those of the relevant plan.

Table 2 - Due diligence requirements for the planned bands at Appendices 30, 30A and 30B

4.2 Requirement for administrative control of the network

Applicants will need to demonstrate that they either have the technical capability or that they have a legally binding contractual commitment by which transmissions to and from stations operating within the planned satellite network can be modified or ceased upon the request of the MCA. Such a request might arise in the event of unacceptable interference being caused to an existing network.

4.3 Milestone requirements and progress monitoring

Applicants will provide to the MCA progress reports in intervals of six (6) months (starting from the date the API filing is submitted to the ITU-BR) for each satellite network application, indicating also any variations from the previously submitted satellite milestones and also details of their coordination progress and status. These progress reports will be provided to the MCA from the date of submission of the API by the applicant, until such time as the assignment is registered in the MIFR.

The MCA will assess the information provided in the six-month reports against the original milestones defined in the business model to establish whether sufficient progress is being made to ensure that the project will be completed within the satellite network's regulatory time period.

In the event that a progress report or where the MCA has sufficient evidence to indicate that the project will no longer be completed within the satellite network's regulatory time period the MCA will give the applicant notice that corrective measures will need to be applied to bring the completion of the project into line with the satellite network's regulatory time period. In such event, the applicant shall provide to the MCA an exceptions report every two months with updates on the implementation and effectiveness of the corrective measures. If corrective measures are not applied or where the next six-monthly progress report does not show adequate progress , the provisions set out in section 12 of this document will be applied by the MCA.

Once the relevant assignment(s) is(are) recorded in the MIFR and brought into use, the operator (formerly described as the applicant) will provide the MCA with yearly reports covering the assignment(s) of its satellite network/system. The operator will provide these reports to the MCA, on the anniversary of the date of bringing into use the assignment(s), each year for the lifetime of the assignment(s). These reports must set out the status of the implementation of the assignment(s) and whether it is operating in accordance with the application's criteria, mainly its recorded characteristics and its business plan. The MCA will assess the information provided in the yearly reports to establish whether the assignment(s) are meeting the application's criteria set under these procedures.

In the event that the MCA finds that the operator is not meeting the application's criteria, the MCA will consult with the operator and where necessary provide reasonable notice for the implementation of corrective measures. If appropriate corrective measures are not or cannot be applied within such reasonable timeframe as established in the notice, the provisions set out in section 12 of this document will be applied by the MCA.

5.0 Evaluation of applications

All applications will be considered against the criteria set out in section 3.1 in this document prior to submission of the relevant filing information to the ITU-BR.

The MCA will acknowledge receipt of applications within 30 days from their submission. The MCA will endeavour to review the application within a reasonable timeframe and reserves the right to reject the application unconditionally.

5.1 Evaluation for non-planned frequency bands

The MCA will submit the filings to the ITU-BR in date and time order of receipt at the MCA of the complete applications. The MCA will not publish details of applications for non-planned assignments in advance of submission to the ITU and will keep the information received confidential. However, it is the responsibility of the applicant to highlight clearly the parts of the submitted documents which are to be treated as confidential and proprietary. The MCA will process the information being supplied by the applicant in accordance with the MCA's published guidelines on confidentiality³⁰.

Applicant's should refer to Section 2 for specific issues on submissions related to API, Request for Coordination, Bringing into Use, Notification of assignments, Suspensions and other matters arising from Article 9 and 11 of the Radio Regulations.

The MCA will not submit notification data for the subject application to the ITU-BR unless coordination has already been completed with affected Malta networks. In this context the applicant would need to submit copies of the completed coordination agreements to the MCA.

If the subject application is brought into use without coordination being completed with existing Maltese frequency assignments or filings, and an existing assignment or filing is subsequently brought into use within its regulatory period and suffers harmful interference from the subject network, then the subject network will mitigate that interference. Failure to do so may lead to the MCA exercising its powers under section 12 of this document.

Subject to compliance with the requirements of this document, the MCA will submit all valid filings to the ITU.

5.2 Evaluation for the planned frequency bands

With respect to applicants wishing to bring an unmodified Maltese assignment or allotment into operation, the MCA will initiate the assignment process when it receives a formal application. At this point, the MCA will publish a notice announcing the receipt of this application and will request any other interested parties to come forward within one month.

If, on the expiry of this month, it results that there is additional demand for this assignment, then the MCA will issue a formal Call for Applications, including details of the submission requirements and award process. Otherwise, the MCA, following the qualification of the applicant, will proceed to a direct assignment.

³⁰ <http://www.mca.org.mt/sites/default/files/guidelines/confidentialityguidelinesfinal-0.pdf>

If a proposed satellite filing is not technically compatible with the proposed or existing usage of an unmodified or modified Maltese assignment or modification/additional use contained in a frequency assignment Plan (e.g. the BSS Plan for Regions 1 and 3 contained in Appendix 30 of the Radio Regulations), the applicant will be required to obtain the agreement of the operator of the affected assignment before the MCA can submit the new filing to the ITU.

If a proposed satellite filing is not technically compatible with the existing usage or existing proposed usage by Maltese operators of a Maltese modification or additional use, then the MCA will not submit notification data to the ITU without first requiring evidence of a coordination agreement with the operator of that existing usage or the existing proposed usage.

6.0 The satellite filing procedure

The MCA's execution of its functions is dependent upon the applicant satisfying the criteria stated earlier in this document and the MCA receiving correct and complete information from the applicant at each stage of the process, as described below.

Each applicant is responsible for the provision of the appropriate information. On receipt of this information the MCA will conduct a brief initial validity check of it. The MCA will not be responsible for procedural delays caused by incomplete or incorrect information being supplied to it by the applicant. The MCA will aim to use its reasonable endeavours to meet the timescales indicated below. However, this is subject to the settlement of any invoices which could be issued by the MCA covering the fees that the MCA would incur in the processing of the relevant filing as detailed in Section 9 of this document. Hence the timescales indicated under this section are based on the assumption that the applicant has settled all of MCA's invoices.

The MCA will process the information being supplied by the applicant in accordance with the MCA's published guidelines on confidentiality³¹.

³¹ <http://www.mca.org.mt/sites/default/files/guidelines/confidentialityguidelinesfinal-0.pdf>.

6.1 Procedure relating to non-planned bands

6.1.1 Advance Publication Information (API)³²

The MCA will acknowledge receipt of the API data from the applicant within five (5) working days. The API data shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this API request to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the API data.

6.1.2 Request for coordination

The MCA will acknowledge receipt of the request for coordination data from the applicant within five (5) working days. The information shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this data to the ITU-BR, or identified administrations, within fifteen (15) working days of when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.1.3 Notification

The MCA will acknowledge receipt of the notification data from the applicant within five (5) working days. The information shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

³² Please also refer to BR Circular Letter CR/401 dated 19 May 2016, which provides transitional measures for the elimination of advance publication information filings by administrations for frequency assignments to satellite networks and systems subject to Section II of Article 9 (<http://www.itu.int/md/R00-CR-CIR/en>).

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.1.4 ITU administrative due diligence – Resolution 49

The MCA will acknowledge receipt of the Resolution 49 data from the applicant within five (5) working days and will then aim to submit this to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant. Information will be provided by the applicant in accordance with the current ITU software format.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.1.5 Bringing into use

The MCA will acknowledge receipt of the data from the applicant within five (5) working days and will then aim to submit this to the ITU-BR within ten (10) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2 Procedure relating to the planned bands

There are two cases to consider:

- i. bringing into use an unmodified planned assignment; and
- ii. modifying an assignment or allotment in a plan, or proposing and/or making an additional use.

The relevant action under section 5.2, as appropriate, will need to be completed before any action by the MCA under this section is taken. The following procedures will then apply.

6.2.1 Unmodified planned assignments (AP30, 30A and 30B)

6.2.1.1 Notification

The MCA will acknowledge receipt of the data from the applicant within five (5) working days. The information shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.1.2 ITU administrative due diligence – Resolution 49

The MCA will acknowledge receipt of the data from the applicant within five (5) working days. Information will be provided by the applicant in accordance with the current ITU software format. MCA will then aim to submit this to the ITU-BR within fifteen (15) working days from when the final data is agreed to with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.1.3 Bringing into use

The MCA will acknowledge receipt of the data from the applicant within five (5) working days and will then aim to submit this to the ITU-BR within ten (10) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.2 Part A or Part B or AP30B submission

The MCA will acknowledge receipt of the data from the applicant within five (5) working days. The data shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this data to the ITU-BR within ten (10) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.2.1 Notification

The MCA will acknowledge receipt of the data from the applicant within five (5) working days. The data shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this data to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.2.2 ITU administrative due diligence – Resolution 49

The MCA will acknowledge receipt of the data from the applicant within five (5) working days. The data shall be as specified in Appendix 4 of the Radio Regulations and in accordance with the current ITU software format. The MCA will then aim to submit this data to the ITU-BR within fifteen (15) working days from when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.2.2.3 Bringing into use

The MCA will acknowledge receipt of the data from the applicant within five (5) working days and will then aim to submit this to the ITU-BR within ten (10) working days of when the final data is agreed with the applicant.

The MCA shall not be held liable if the ITU-BR reject the data submission.

Once submitted, applicants will be sent copies of the MCA's email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

6.3 Special sections publications

The frequency coordination procedure is an obligatory process of negotiation between administrations with the aim of achieving the efficient use of the satellite orbit and radio spectrum resource through a controlled interference environment in which satellite networks can operate and satisfy actual requirements. Once the assignments of a satellite network/system are coordinated and recorded in the MIFR, the operator has still the obligation to engage in dialogue with the operators of later networks through the frequency coordination process to meet the said purpose.

Administrations are required by the ITU-BR to identify issues of potential interference arising from these networks in accordance with the Radio Regulations procedures. The MCA, in turn, pass this obligation to operators.

In order to give each operator the best advantage in coordinating its networks, the MCA, wishes to respond to all Special Sections³³ in an appropriate manner and in accordance with the Radio Regulations. Operators are responsible for examining Special Sections and responding appropriately to the MCA.

On receipt of comments from the Maltese operators in respect of networks published in the BR IFIC, the MCA will seek any necessary clarification from the operator and draft and distribute the appropriate correspondence in compliance with the deadline quoted on the Special Section. The correspondence will be sent to the relevant notifying administration(s) and to the ITU informing them of which networks have the potential to cause interference to Maltese filings. Copies of the correspondence will be sent to the relevant Maltese operator(s).

³³ The Special Sections are described in the Preface for the BR IFIC.

When a comment is received from a Maltese operator regarding a Maltese filing on the BR IFIC, the MCA will send the appropriate correspondence to the identifying operator and a copy to the originator. Comments must be received by the MCA within three months of the date of publication of the BR IFIC and the notifying operator will be informed of the potential for interference within four months of the date of publication.

BR IFIC comments received by the MCA from the ITU and other administrations which identify Maltese filings as having the potential to cause interference will be acknowledged by the MCA and forwarded to the concerned Maltese operator(s) within ten (10) working days of receipt. The operator must take the comments into consideration and, if required, take any action necessary. If the MCA has imposed a deadline, the response must be received by the MCA within this deadline.

Copies of all other correspondence received by the MCA which relate to Maltese filings will be forwarded by the MCA to the relevant operator(s) within ten (10) working days of receipt. The operator(s) must action, as required, all received correspondence and, if requested, provide a response within the specified timescale or by the MCA declared response date, whichever is applicable.

7.0 Authorisation of requests to conduct coordination directly

The MCA may consider requests from applicants to be delegated authority to deal directly at operator to operator level with all technical and operational aspects of the coordination of frequency assignments and orbital locations, relating to the appropriate satellite networks or systems in accordance with the procedures of the Radio Regulations.

In this regard the MCA may attend an operator to operator coordination meeting:

- at its discretion;
- at the request of the satellite network operator; or
- at the request of another administration.

Such authorisation will be given by the MCA in a letter of introduction to the other administration, copied to the Maltese applicant/operator concerned. This letter will confirm that the applicant/operator has the Maltese administration's authorisation, with respect to the specified networks, to:

- enter into coordination by correspondence whenever possible;
- arrange and attend operator to operator coordination meetings; and
- conclude operator to operator agreements.

The above-mentioned letter of introduction will make it clear that:

- any operator to operator agreements will require ratification by the relevant administrations;
- the operator is only authorised to coordinate the networks specified in the letter of introduction; and
- the operator will not be authorised to sign any administration to administration agreements on behalf of Malta, or to represent Malta.

In this regard the operator must provide the MCA with reports on a six monthly basis describing the progress of coordination negotiations established in accordance with these arrangements and including copies of all coordination agreements concluded.

8.0 Other requirements

The information provided in this section is not an exhaustive account of all the possible authorisation requirements with which an applicant may need to comply and should not be regarded as a complete or authoritative statement of compliance. The MCA recommends that applicants seek independent professional advice in this respect.

- The satellite orbit will be made available to the applicant via a concession agreement, and the radio frequencies via a licence to be granted by the MCA³⁴. These permits need to be granted by the MCA before the date of the planned launch of the satellite.

It should be noted that the MCA will consider the licensing of a satellite network even prior to the successful completion of the coordination procedure described in this document. However, in such an event, the satellite network operator cannot claim protection from harmful interference which may be caused by other networks, and must remove any potential harmful interference which may be caused to such other networks.

Applicants are advised to check as to whether a broadcasting licence is required, where the transmissions' content is of a broadcast nature.

- Applicants are advised to check with appropriate administrations as to whether they are required to obtain national authorisations with respect to the services intended to be provided by their satellite network.

³⁴ The term of these permits will reflect the life-time of the satellite.

9.0 Fees

9.1 ITU fees

In accordance with the provisions of ITU Council Decision 482, as amended, the ITU charges fees for processing satellite network filings on a cost recovery basis. Detailed arrangements for the implementation of these cost recovery charges are available from the ITU.

The ITU Finance Department raises its invoices for fees incurred in processing a satellite network filing directly against the satellite network operator concerned. ITU invoices will be sent to the MCA and the MCA will forward these to the operator concerned within five (5) days of receipt. On receipt of the invoice, the operator will make the payment directly to the ITU by the required date and will inform the MCA in writing that the payment has been made.

If payments are not received by the ITU in accordance with the provisions of Council Decision 482, as amended, the ITU-BR will, after informing the MCA, cancel the filing(s).

9.2 MCA fees

In determining the fees applicable for the processing of applications for satellite network filings, the MCA will act on a cost recovery basis, which will be applicable from when the first application has been submitted until when the operator requests in writing to cancel or delete the application or the assignment(s) from the MIFR. The computation of the applicable fees will include, amongst others, fees incurred by any third party commissioned by the MCA to assist it in the evaluation of an application for satellite filings, travel and subsistence costs incurred with respect to frequency coordination meetings and administrative costs incurred by the MCA for the satellite filing process and for the management of the network/system's assignments during its lifetime in the MIFR.

On submission of a satellite network application applicants will be required to pay an initial fee of €20,000 serving as MCA's cost-recovery fund. This fund will be used to cover the costs incurred by the MCA for the satellite filing process and for the management of the network/system's assignments during its lifetime in the MIFR, as described above.

In this regard the MCA will be issuing a statement of account in relation to this fund twice yearly in the interest of transparency and good accounting practice. Applicants / satellite operators will be required to top-up this fund by additional €20,000 amounts when the remaining balance of the fund is less than €5,000.

The fund will be terminated by the MCA and any residual amounts will be returned to the applicant / satellite operator in any of the following cases:

- when the satellite coordination process is cancelled; or
- when a satellite operator relinquishes the right to use a satellite filing.

10.0 Outer Space Operations and Launch License

This document does not address the licensing of the outer space operations and launch of space objects by Maltese legal entities.

In the absence of any regulatory provisions in place in Malta, the operator must seek such license from another jurisdiction. In the event that Malta develops such regulations in the future, these will be communicated by the MCA on its internet webpage and/or by email to the Maltese operators/applicants.

11.0 Transfer of satellite network filings between two operators

An applicant may request the MCA to transfer to a third-party a filing which is still in the process of coordination or notified and recorded in the MIFR. Similarly, a company which enjoys the right to use a satellite orbit and spectrum registered to Malta in the ITU MIFR may request the MCA to transfer the said right to a third Maltese party.

Any transfer must be between companies or organisations that meet all the necessary criteria and obligations contained in this document. Any transfer however, requires the MCA's prior written consent and is subject to the transferee company or organisation providing evidence that it satisfies the relevant due diligence requirements, as described in section 4.

The MCA has, in principle, no objection to such a transfer being carried out on commercial terms whereby the original assignee is paid by the transferee to relinquish the filing. This is a matter between the contracting parties.

The MCA reserves the right to consult publicly prior to authorising any transfer described under this section and reserves its right not to accept the transfer and/or to cancel, relinquish and reassign the said filing or assignments in the MIFR if it feels that this is being done for speculative purposes.

12.0 Cancellation, relinquishment and reassignment by the MCA of Maltese satellite networks filings

12.1 General

A Maltese satellite operator may relinquish the use of an assignment in either a planned or a non-planned band to the MCA for the latter to offer for re-assignment where such assignment is either:

- notified and recorded in the MIFR and in operation; or
- still in the process of coordination.

In the event that a Maltese satellite operator notifies the MCA that it wishes to relinquish an existing filing, the MCA will publish a notice in its corporate website indicating that the filing has become available for reassignment and invite expressions of interest from other operators who meet the criteria and obligations set out in this document. Such relinquishment can give rise to the following three scenarios:

- a) In the event that there are no expressions of interest, the MCA will apply the provision of No. 11.49 of the ITU RR, for suspension and subsequent cancellation of such assignment.
- b) In the event that only one expression of interest is received, the MCA may reassign the filing to the satellite operator submitting the expression of interest, after the MCA is satisfied that the new satellite operator has met all the necessary conditions and obligations set out in this document.
- c) In the event that more than one expression of interest is received, the MCA may conduct an award process to determine which application to accept. In such event, the MCA will issue a formal Call for Applications, including details of the submission requirements and award process.

In the event that a satellite operator relinquishes a filing which is still in the coordination process, the MCA will publish a notice indicating that the filing, which is still in the coordination process, has become available for reassignment to another operator. The MCA will invite expressions of interest from other satellite operators who meet the conditions and criteria set out in this document, depending on the stage of the process, as set out in section 4 of this document and as agreed in discussions with the MCA. Such relinquishment can give rise to the following three scenarios:

- a) In the event that there are no expressions of interest, the coordination process will be cancelled by the MCA.

- b) In the event that only one expression of interest is received, the MCA may reassign the responsibility for the coordination process to the applicant submitting the expression of interest, after the MCA is satisfied that the new applicant has met all the necessary conditions and obligations set out in this document.
- c) In the event that more than one expression of interest is received, the MCA may conduct an award process to determine which application to accept. In such event, the MCA will issue a formal Call for Applications, including details of the submission requirements and award process.

12.2 Cancellation and reassignment due to non-compliance with due diligence requirements

As required by section 4 of this document, applicants will provide the MCA with due diligence documentation and progress reports for each satellite network indicating any variations from the previously submitted business model and also details of their coordination progress and status, including whether the original network is likely to enter into commercial service according to the timescale envisaged. The MCA will use such information to assess whether the applicant's project is meeting the criteria that had been set and will be completed within the satellite network's regulatory time period. The MCA will assess the facts, circumstances and next stages of each case individually.

If, in the MCA's opinion, there is insufficient evidence of progress against the milestone commitments on the basis of the information supplied by the applicant, the MCA will consult with the relevant applicant. The MCA will provide the applicant with an opportunity to remedy the situation, to ensure that progress is brought into line with the milestone commitments, within a specified timeframe.

The MCA would expect that if the applicant fails to remedy the situation within such specified timeframe, the MCA may cancel the filing or may seek to reassign it to another party in accordance with the procedures set out in section 12.1 above.

The MCA may consult with the Minister responsible for communications prior to taking any action to cancel such a filing.

12.3 Other reasons for cancellation and reassignment

In the event that the operation of a Maltese satellite network or system causes harmful interference to other satellite networks or systems, the MCA will instruct the satellite operator to cease transmission immediately and not to resume operation until such time as the cause of the interference is remedied. If the operator is unable to remedy the interference within six (6) months the MCA may suspend the filing in accordance with No. 11.49 of the Radio Regulations. If within the period of suspension the MCA is satisfied that the interference has been remedied, the MCA will permit transmissions to be recommenced and will notify the ITU-BR that the assignment has been brought back into regular use. Otherwise, if at the end of the suspension period the interference has not been remedied and the filing brought back into regular use the filing will be cancelled by the ITU-BR.

In the event that it is established by the MCA that a Maltese satellite network or system is either:

- operating outside the characteristics as recorded in the MIFR; or
- in the situation where the ITU-BR has not completed the processing of the notice in accordance with Article 11 of the Radio Regulations,

the MCA will consult with the relevant operator and request that the matter is remedied within six (6) months. If the matter has not been remedied within the said six (6) months, the MCA may either suspend, cancel or reassign the assignment as set in Section 12.1.

There will be no consideration given to the operator with respect to the cancellation or the reassignment of an assignment.

13.0 Changes to the ITU satellite procedures made by a competent World Radiocommunication Conference (WRC)

When a competent WRC makes changes to the coordination and notification procedures which may impact the national procedures as detailed in this document, the MCA will adopt these changes and will update this document so as to reflect the amendments. Any new WRC procedures as provided in the final acts of such competent WRC will apply with immediate effect and will take precedence to the text in this document until it is duly updated.

Annex 1: Malta's planned satellite assignments

Slot at 22.8 degrees East

Downlink central frequencies (MHz)	Uplink central frequencies (MHz)
12,111.08	17,327.48
12,149.44	17,365.84
12,187.80	17,404.20
12,226.16	17,442.56
12,264.52	17,480.92
12,302.88	17,519.28
12,341.24	17,557.64
12,379.60	17,596.00
12,417.96	17,634.36
12,456.32	17,672.72

Slot at 3 degrees West³⁵

	Downlink frequencies (GHz)	Uplink frequencies (GHz)
C-band	4.5-4.8	6.725-7.025
Ku-band	10.7-10.95 11.2-11.45	12.75-13.25

³⁵ The allotments of this Appendix are defined at a frequency band level and every allotment has different technical and operational parameters.

Annex 2: Mandatory Information Required

An applicant should submit the information under Part A with respect to the submission of an application for both planned and non-planned bands. The requested information under Part B shall only be submitted with respect to applications for the planned bands.

The MCA reserves the right to request any further information or clarifications as it may deem necessary. This information will primarily be used by the MCA to carry out its due diligence assessment.

Part A – Applicable to the Planned and the Non-planned bands

Competence and Experience:

An applicant should clearly demonstrate its financial capability, knowledge and experience which is relevant to the establishment, operation and commercialisation of the requested satellite slots and related radio frequencies. In particular, an applicant shall provide details of its satellite systems that are in operation and those that are planned to be put in operation. Details of the relevant satellite related licences or concessions granted by other jurisdictions also need to be submitted.

In addition, an applicant is also required to provide the following details:

- information on its investment capital and financial resources;
- independently verifiable and audited capitalization of the interested party in Euros or US dollars³⁶;
- organisational structure (organigram), clearly identifying executive or senior staff positions, relevant disciplines and levels of expertise; and
- curriculum vitae of the top management tier.

An applicant shall also indicate whether:

- it controls assets that are at least equivalent to the development budget of the proposed satellite system; and
- it is an authorised undertaking of electronic communications services in Malta, or is affiliated with one of them

Proposed Business Model

An applicant is required to present its proposed business model for the requested satellite slot and related radio frequencies. This information is required in respect of each of the requested satellite slots. This should include, as a minimum, the following details:

- Description of the proposed satellite network, including details of the envisaged spectrum requirements and estimations of the capacity to be provided.
- The estimated in-service date and the life expectancy of the satellite.
- A market analysis with an industry description and outlook, as well as an evaluation of both existing and future competition and any possible entry barriers. This should provide

³⁶ This must be of the most recently ended fiscal year.

adequate information on how it will utilize the requested satellite slots and related radio frequencies.

- A demand analysis with an outline of the target market including its demographics, size and needs. This should indicate the type of services which are to be provided as well as a list of potential customers.

An applicant should provide a plan on how it intends to fund its project, thus indicating what the financial resources necessary in support of its proposed business model are and how the applicant intends to procure such finances. As the project progresses, this plan and the evidence of financing needs to be updated.

Other information:

- In case of a company, a copy of the most recent Memorandum and Articles of Association of an applicant, of its parent company (where applicable) and of the latter's parent company, and so forth up to the point of establishment of the beneficial owner(s).
- In case of a company, a copy of the Certificate of Registration of the aforementioned companies.
- A Good-Standing Certificate of recent date coupled with a bank reference of the aforementioned companies, and a bank reference and good conduct certificate of the shareholders and the ultimate beneficiaries:

Provided that in cases where any of the said companies has a large number of stakeholders (shareholders), the information indicated is to be provided on all shareholders or group of shareholders (where shareholders are members of the same Group of Companies or are otherwise linked together) that hold shares with voting rights in excess of 5% in the relevant company:

Provided further that where any of the said companies' shareholders that fall beyond the above threshold are regulated companies under the relevant financial services legislation, an applicant must provide information as to the place of incorporation of the regulated companies, their regulatory status and the nature of the fund. Apart from this information, where the said shareholders are collective investment schemes, all the required information relating to the shareholders mentioned above must be provided in relation to the Manager of the scheme:

Provided further that in cases where any of the said companies is a company quoted on a Stock Exchange, an applicant must provide information in relation to the said listing and must provide the above mentioned information in relation to those shareholders or group of shareholders (where shareholders are members of the same Group of Companies or are otherwise linked together) that hold shares in excess of 25% in the relevant quoted company:

Provided further that in cases where capital shares or other securities issued by the said companies are administered on behalf of their owner by third parties (for example trustees), such facts are to be noted in the submission and the aforementioned information should refer to the actual owner, or principal beneficiary of the shares/securities:

Provided further that the MCA reserves the right to request other information or shareholder declarations in relation to the above.

- An Advanced Revenue Ruling from Inland Revenue regarding ITC status (for International Trading Companies registered before 1st January 2007).

- An organigram of the Group of Companies of which an applicant forms part (where applicable).
- Evidence of its financial standing and, where applicable, that of its parent company and of the latter's parent company, and so forth up to the ultimate beneficiary. Audited financial statements for the previous three years must be included. In the case of a quoted company, market capitalisation performance over the same period should also be included. The same applies to parent companies, or other companies on which an applicant has based any financial qualifications. These financial statements should be verified by an independent certified auditor.
- In case an applicant forms part of a consortia, a Consortium Leader needs to be nominated. The Consortium Leader will represent the consortium in communications with the MCA throughout the application process as may be required. In this respect a Consortium submitting should provide a power of attorney identifying the person who has the legal and judicial representation of the Consortium in an application.

Where two (2) or more interested parties choose to submit an application as a consortium, all requested information concerning the applicant must be provided in respect of each of the participating members.

At any stage in the process, an applicant who has submitted an application as a consortium may be required to furnish to the MCA an original copy of the consortium agreement or other form of shareholders' accord as evidence of the above.

Part B – Applicable to the planned bands only

Economical offer

An applicant must provide a concise description of the economical offer for the assignment of any of Malta's planned bands. This offer must be divided into:

- A fixed amount to be paid for the initial assignment of the resources;
- A percentage of the revenue generated through the satellite resources to be annually shared with the MCA for the lease of the resources; and
- The amount of satellite capacity an applicant can make available to the Government of Malta and/or the MCA and the terms under which this capacity can be offered.

Only applications with offers above the values shown below will be considered:

Orbital slot at 22.8°E

- Minimum initial fee amount: 0.75 million Euros.
- Minimum revenue shared percentage: 3% of the revenue generated.

Orbital slot at 3°W

- Minimum initial fee amount: 0.4 million Euros.
- Minimum revenue shared percentage: 2% of the revenue generated.