

Procedures for the Management of Satellite Filings

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Part 1 - Scope, Purpose and International Background

Section 1

Preamble

These Procedures for the Management of Satellite Filings are issued by the Nigerian Communications Commission (the Commission) in order to specify the procedures, documentation and other requirements to guide applicants and other interested stakeholders in filing applications on satellite matters.

Scope and purpose

1.1 Satellite services are important for business, social and scientific applications, offering a unique ability to deliver communications to many parts of the world not adequately served by other means. In order to operate a satellite network, it is necessary to obtain access to spectrum for the uplink (Earth to satellite) as well as the return path from the satellite to stations in the service area. It is also necessary to secure an orbital position in space for the satellite. A satellite's orbital position will influence the area of the globe that it can serve.

1.2 Spectrum and orbital positions are valuable and limited resources. Radio spectrum is in high demand as new mobile and broadband technologies develop and it becomes increasingly challenging to find frequencies to deliver new communications services. Orbital positions from which satellites can serve commercially attractive markets, such as

the USA and Europe, are very popular and are becoming congested. If the spectrum and orbital positions are not used efficiently, competition, innovation and growth in communications services will be hindered to the detriment of consumers and businesses.

1.3 Spectrum and orbital positions have to be managed and planned in order to avoid interference and ensure that adequate separations are maintained between satellites. The international nature of satellite services means that coordination take place within a framework of international rules administered by the International Telecommunication Union (ITU), as further described in section 2 of this document.

1.4 This document describes the procedures that must be followed by companies or other organisations located in Nigeria wishing to submit applications through Nigeria for the management and processing of satellite filings. It includes details of coordination and registration, in order to achieve international recognition under the ITU procedures.

1.5 This document describes the roles and responsibilities of NCC and the applying operator for each of the different types of application that are currently permitted under the ITU Radio Regulations (Radio Regulations) including:

- a. Article 5 (Frequency allocations);
- b. Article 9, (Procedure for effecting coordination with or obtaining agreement of other administrations); and
- c. Article 11 (Notification and recording of frequency assignments) and the relevant appendices regarding the procedures for advance publication, coordination and notification of frequency assignments.

This document also covers the frequency bands that are subject to assignment planning arrangements (e.g. the broadcasting satellite service), where particular procedures are applicable. These procedures are set out in Appendices 30, 30A and 30B of the Radio Regulations, which contain the worldwide frequency allotment and assignment plans with associated procedures and technical data.

1.6 The Commission represents the Nigerian Government in the ITU and acts as the Nigerian notifying administration under the ITU procedures. The general role and functions of the Commission are set out in section 3 of this document.

1.7 It is necessary to submit data to the ITU so that the frequency assignments can be registered in the ITU Master International Frequency Register (Master Register) and receive international recognition in accordance with Article 8 of the Radio Regulations. The international rights and obligations of administrations regarding their own and other administrations' frequency assignments are derived from the recording of the assignments in the Master Register, or the conformity of the assignments with a frequency plan.

1.8 Any reference in this document to the ITU Radio Regulations and the international legal provisions is provided for information purposes only. All references are correct, as far as the Commission is aware, at the time of publication of these procedures. Any applicant is recommended to obtain its own legal advice prior to making an application in accordance with these procedures and undertake such technical investigations as it may deem necessary.

Section 2

ITU procedures for coordination and notification of satellite networks

2.1 This introduction to the ITU and the procedures of the Radio Regulations is for information purposes only. It is included to provide an overview of the role of the ITU and a general description of the procedures set out in the Radio Regulations. This introduction also provides the international context for the Commission's filing procedures, which are set out in section 7 of this document. This general description is not intended to be a comprehensive guide to the Radio Regulations and the procedures for satellite filings, nor does it cover the procedure for terrestrial filings in relation to Earth stations. This introductory text is based on the ITU Radio Regulations (2004 Edition) and the Rules of Procedure (2005 Edition).

2.2 The ITU is a specialized agency within the United Nations system of organizations where representatives from governments and the private sector coordinate global telecommunications networks and services. The instruments of the ITU are the Constitution, Convention and Administrative Regulations (of which the Radio Regulations are a part). Together these three instruments form an international treaty governing the use of the radio spectrum to which the signatory ITU Member States, including Nigeria, are bound. These instruments contain the main principles and regulations governing the following major elements:

- a) Frequency allocations to different categories of radio communication services;

- b) The rights and obligations of Member States in obtaining access to the spectrum/orbit resources; and
- c) International recognition of these rights by recording frequency assignments and, as appropriate, orbital positions used or intended to be used in the Master Register. The ITU has three sectors through which its work is conducted. These are the Telecommunication Development Sector (ITU-D), the Telecommunication Standardisation Sector (ITU-T) and the Radio-communication Sector (ITU-R). Each sector has a Bureau headed by a Director. The Radio-communication Bureau (ITU-BR) is important for the purposes of this document as it:
 - a) is responsible for applying the provisions of the Radio Regulations and agreements between administrations of the same Region, see section 2.10;
 - b) records and registers frequency assignments and also the orbital characteristics of space networks, and maintains the Master Register; and
 - c) provides advice to the ITU Member States on the equitable, effective and economical use of the radio-frequency spectrum and satellite orbits, and investigates and assists in resolving cases of harmful interference.

2.3 Member States are each represented by their national administration, which is the government department or service responsible for discharging the obligations set out in the ITU instruments and adopting appropriate national legislation to implement these obligations.

2.4 Article 6 Para 1 (CS 37) of the Constitution provides that the:

"Member States are bound to abide by the provisions of this

Constitution, the Convention and the Administrative Regulations in all telecommunication offices and stations established or operated by them which engage in international services or which are capable of causing harmful interference to radio services of other countries".

2.5 The position in outer space, or orbital slot, occupied by a satellite determines the area of the Earth that its signals can reach and its orbit will determine whether it remains over the same area as the Earth rotates. Certain orbital locations are in short supply. Most communications satellites operate in the geostationary-satellite orbit (GSO) which is at an altitude of 35,800 km on the plane of the equator. The importance of this orbit is that at this altitude, each satellite rotates around the Earth's axis every 24 hours and so appears to be stationary above a fixed point on the Earth. A satellite system of three geostationary satellites positioned 120° apart can cover most of the surface of the Earth, although coverage is limited to regions below around 75 degrees of latitude. The GSO represents a scarce natural resource, as does the radio-frequency spectrum. It is thus essential to have an efficient global mechanism to assign and coordinate frequencies and to assign orbital slots on the GSO.

2.6 Other applications for satellite networks use orbits at lower altitudes than the GSO where the satellites do not appear to be stationary to an observer on Earth. Similar procedures for coordination are also provided for these networks.

2.7 The international nature of satellite services dictates that they must be managed internationally by the ITU. The role of the ITU Member States in relation to the regulation of the radio-frequency spectrum and orbital positions, such as positions in the GSO, is set out in Article 44 Para 2 (CS

196) of the Constitution of the ITU and re-iterated in No. 0.3 of the Radio Regulations. The latter states that:

"In using frequency bands for radio services, Members shall bear in mind that radio frequencies and the geostationary-satellite orbit are limited natural resources and that they must be used rationally, efficiently and economically, in conformity with the provisions of these Regulations, so that countries or groups of countries may have equitable access to both, taking into account the special needs of the developing countries and the geographical situation of particular countries".

Categories of Satellite Service

2.8 There are a number of broad regulatory categories of satellite service defined by the ITU and which are used for the allocation of spectrum within the Radio Regulations. Each category can have quite different characteristics, as described below.

- a) Fixed-Satellite Service (FSS) - This is a radio communication service *"between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas; in some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service; the fixed-satellite service may also include feeder links for other space radio communication services"* (see No. 1.21 of the Radio Regulations).
- b) Mobile-Satellite Service (MSS) – This is a radio communication service which is between mobile earth stations and one or more space stations, or between space stations used by this service; or

between mobile earth stations by means of one or more space stations. This service may also include feeder links necessary for its operation.

- c) Broadcasting-Satellite Service (BSS) - This is a radio communication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public. The term "direct reception" encompasses both individual reception and community reception.
- d) Other services include science services, such as the Earth Exploration Satellite Service. While MSS, FSS and BSS have particular regulatory meanings and are used for the allocation of spectrum, it should be noted that in practice there is some blurring and convergence in the applications for which they are used.

Introduction to Frequency Allocation and Coordination

2.9 The two important areas of ITU regulatory involvement with regard to satellites are:

- a) frequency allocations (Article 5 of the Radio Regulations); and
- b) the coordination, notification and recording in the Master Register (Articles 9 and 11 of the Radio Regulations).

2.10 Section IV of Article 5 of the Radio Regulations provides the Table of Frequency Allocations (Table). This Table sets out, frequency band by frequency band which radio communication services have allocations in each of the three ITU Regions. The Regions are broadly defined in No. 5.2 as: Region 1, Europe/Africa; Region 2, Americas; and Region 3, Asia/Oceania. The Nigeria falls within Region 1. Each ITU Member State is free to deviate from this Table, but only to the extent that harmful

interference is not caused to any other ITU Member State that is using the spectrum in accordance with Article 5 of the Radio Regulations. No. 4.2 of the Radio Regulations states:

"Member States undertake that in assigning frequencies to stations which are capable of causing harmful interference to the services rendered by the stations of another country, such assignments are to be made in accordance with the Table of Frequency Allocations and other provisions of these Regulations."

No. 4.4 continues by stating that:

"Administrations of the Member States shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations in this Chapter or the other provisions of these Regulations, except on the express condition that such a station, when using such a frequency assignment, shall not cause harmful interference to, and shall not claim protection from harmful interference caused by, a station operating in accordance with the provisions of the Constitution, the Convention and these Regulations."

2.11 The ITU Radio Regulations define those uses for specific frequency bands that will have international recognition in each of the three Regions. Within each frequency band, radio communication services are allocated on the basis of 'primary' and 'secondary' services, either on a worldwide or regional basis. By definition, stations of a secondary service will neither cause harmful interference to, nor claim protection from harmful interference caused by existing or future stations of the primary service (see No. 5.30 of the Radio Regulations). In many instances, bands of frequencies are allocated to more than one service on a co-primary

basis. In such cases, specific sharing conditions are imposed on each service, e.g. limitations on equivalent isotropically radiated power (e.i.r.p.), minimum elevation angles for earth stations and maximum levels of interference.

Significance of Recording in the Master Register

2.12 The Articles of the Radio Regulations contain procedures by which a satellite network's frequency assignments can be registered, through its national administration, with the ITU in order to obtain international recognition. This means that all administrations are informed of the use of the assignments and that they are taken into account in any future planning conducted at the national, regional or international level.

No. 8.1 of the Radio Regulations states that the:

"international rights and obligations of administrations in respect of their own and other administrations' frequency assignments shall be derived from the recording of those assignments in the Master International Frequency Register (the Master Register) or from their conformity, where appropriate, with a plan."

The international rights are subject to the provisions of the Radio Regulations and those of any relevant frequency allotment or assignment plan.

2.13 The specific procedures setting out the rights and obligations of each administration in relation to orbit and spectrum management and providing the means to achieve radio communication in a controlled interference environment have been laid down by successive ITU World

Radio Conferences (WRCs) based on two main principles: efficient use; and equitable access. Two mechanisms for the sharing of orbit and spectrum resources have been developed and implemented:

- a) a priori planning procedures which guarantee equitable access to orbit/spectrum resources for future use; and
- b) coordination procedures.

In relation to (b) above, the coordination procedure is an obligatory process of negotiation between administrations with the aim of achieving the efficient use of the orbit/spectrum resource through a controlled interference environment in which satellite networks can operate and satisfy actual requirements which include:

- i) GSO networks in all services and frequency bands, and non-GSO networks in certain frequency bands governed by the procedure in No. 9.11A of the Radio Regulations, which are subject to advance publication and coordination procedures; and
- ii) other non-GSO networks for which only the advance publication procedure is necessary (see section 2.20(b)).

Introduction to Planned and Non-Planned Bands

2.14 The Radio Regulations contain procedures leading to a recording in the Master Register for space services relating to bands that are either covered by a "plan", or that are accessible on a "first-come-first-served basis".

2.15 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.

2.16 In the planned bands, equitable access to spectrum is guaranteed by a priori planning (for example, by way of an allotment plan identifying a particularity of channels, an orbital location, a set of technical characteristics and a given service area for each administration), normally carried out at a world or regional planning conference. Each administration submits its requirements, technical bases for the plan are established at the conference and a plan is drawn up in relation to the available spectrum. Assignments are then pre-registered in the names of specific administrations. The assignment or allotment plans form part of the Radio Regulations

Coordination Procedures for Non-planned Bands

2.17 As mentioned in section 2.15, for services in non-planned bands the use of the resource is implemented through a first-come-first-served procedure based on the principle that rights are acquired through negotiations with other administrations (i.e. coordination agreements). Successful coordination will lead to the international recognition of the use of the assignments of the networks and the recording of the assignments in the Master Register.

2.18 There are three basic steps in the coordination procedures for satellite networks in non-planned bands:

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

The coordination procedures are described in Article 9 of the Radio Regulations. Each step is described below.

Advance Publication Information

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

2.20 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 (see section 2.24). Currently, networks are required to be brought into use within seven years of the date of receipt by the ITU of the API. API must be supplied not earlier than seven years and not later than two 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 system.
- 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.

Request for coordination

2.21 Before an administration can notify the ITU-BR or bring into use a frequency assignment it must effect coordination with other administrations identified as affected administrations. Coordination, as described in Section II of Article 9, is a formal regulatory obligation both for an administration seeking 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. 2.22 Co-ordination is required in all cases except:

- a) those cases where it is not stated in Article 9 of the Radio Regulations that coordination is required; or
- b) when an unmodified assignment in a planned band (Appendix 30, 30A or 30B of the Radio Regulations) is brought into use.

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

2.23 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 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 months after the date that the ITU-BR

received the API. The Request for Coordination must be received by the ITU-BR within two years of receipt by the ITU-BR of the API, otherwise the filing will be cancelled (i.e. everything done prior to this date will be disregarded) and the submission will be regarded as a new API.

2.24 Receipt by the ITU-BR of a Request for Coordination establishes the regulatory precedence of the network. Networks whose Request for Coordination was received by the ITU-BR after this prior Request for Coordination are deemed to have lower regulatory precedence to, and must seek a coordination agreement with, those networks with higher regulatory precedence i.e. the networks where the relevant Request for Coordination was received earlier and which are affected by the later network.

2.25 The ITU-BR will examine the information provided by the notifying administration in section 2.19 above and identify any other administrations 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.

2.26 Within four months of the publication of the BR IFIC an identified administration 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.

2.27 The affected administration may use any 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.

2.28 For effecting coordination, the frequency assignments which are to be taken into account in the coordination process 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 Master Register or coordinated under the provisions of the Radio Regulations or are themselves under coordination but have regulatory precedence over the proposed assignments.

2.29 Assignments are recognised by prior networks by virtue of the coordination agreements which have been secured. If coordination is not complete against any assignments with which it was required, then the network operator cannot claim protection from harmful interference from, and must remove any harmful interference caused to such prior networks.- In short, it must operate on a non interference, non protection basis in respect of those assignments.

Notification

2.30 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 the recording of the frequency assignment in the Master Register. 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. The importance of a recording in the Master Register is mentioned in section 2.12 above.

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

- a) the use of the assignment is capable of causing harmful interference to, or capable of receiving harmful interference from, any station, of another administration;
- b) if the assignment is to be used for international radio communications;
- c) if the assignment is subject to the coordination procedure of Article 9; or
- d) if international recognition is required for that assignment. It is generally safe to assume that all assignments related to space services need to be notified.

2.32 Under No. 11.44.1, complete notification information, constituting a "receivable notice" in accordance with the ITU Rules of Procedure, must be received by the ITUBR before the end of seven years from the date of receipt of API under No. 9.14. For assignments which do not require coordination under Article 9, Section II, the notification procedure for space stations can generally be initiated upon the completion of the API procedure. For assignments which do require coordination under Article 9, Section II, the notification procedure for space stations can be initiated upon the completion of the coordination procedure.

2.33 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.

2.34 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.

2.35 The ITU-BR will then examine the notice received. If the ITU-BR confirms that this is in conformity with the Radio Regulations (No. 11.31) it will record the relevant assignment in the Master Register⁵. If the examination, as described in Nos. 11.30 to 11.34, leads to a favourable finding, the assignment will be recorded in the Master Register.

2.36 An important feature of this procedure is that the Master Register provides, as well as the basic characteristics of the assignment, an indication of each assignment's status with respect to the other assignments, reflecting the findings issued at the time when it was recorded in the Master Register. The contents of the Master Register are published every six months in DVD format. In the interval between issues In the case of satellite networks for which relevant API has been received before 22 November 1997, the corresponding period will be nine years from the date of publication of the API. Where coordination has not been completed other procedures will apply (for example, see Nos. 11.32,

11.32A and 11.41 of the Radio Regulations). Administrations are kept informed of new assignments notified to the ITU-BR and of the findings formulated in this respect by way of the BR IFIC.

Planned bands

2.37 For planned bands, the ITU procedures are different, as explained below. As briefly mentioned in section 2.16, planned bands are those subject to a priori planning procedures. This a priori planning seeks to guarantee equitable access to orbit/spectrum resources for future use, as referred to in Article 44 Para 2 (CS 196) of the Constitution of the ITU and No. 0.3 of the Radio Regulations. No coordination is required for assignments contained in the plans.

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

- a) Appendix 30, setting out the provisions for all services and associated plans and list for the BSS in certain bands;
- b) Appendix 30A, setting out the provisions and associated plans and list for feeder links for the BSS in certain bands; and
- c) Appendix 30B, setting out the provisions and associated plan for the FSS in certain bands.

2.39 Each Appendix sets out the frequency and orbital position plans for those services in the bands specified. The plans essentially provide assignments which are pre-coordinated

2.40 Although the plans are contained in the relevant Appendices, the bands themselves are included in the Table of Frequency Allocations in Article 5 of the Radio Regulations.

2.41 Administrations may seek to modify the plans. In each Appendix, it is possible to modify the plan, either by changing the characteristics of an assignment, or by making an additional use. In either of these cases, there are specific procedures in the relevant Appendix for coordination and notification of these changes to the plan. The procedures for making changes to the plan in Appendix 30B are different from the procedures for making changes to the plans in Appendix 30 and Appendix 30A.

Making Use of the Planned Bands in Appendix 30 and 30A

2.42 Under Appendix 30 and Appendix 30A a "Part A"⁶ publication represents a request for coordination (as previously described in relation to non-planned bands) 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.

2.43 In a similar way to non-planned bands, the process continues with notification, where the details of the new assignments are examined and recorded in the Master Register.

Making Use of the Planned Bands in Appendix 30B

2.44 Appendix 30B consists of two parts: Part A is a plan of allotments to administrations on the basis of national service areas (Plan); and Part B contains networks of systems which existed at the time the Plan was

created in 1988. To make use of an assignment under Appendix 30B one of five processes must be undertaken and the successful application of any of the five processes will result in an assignment being recorded in the Appendix 30B List (the Appendix 30B equivalent of the Master Register).

The five actions are as follows:

- a) converting an allotment into an assignment which is in conformity with the Plan;
- b) converting an allotment into an assignment which is not in conformity with the Plan;
- c) the recording of assignments to existing systems set out in Part B of the Plan in the Appendix 30B List;
- d) introducing a sub-regional system; and
- e) making an additional use. In all but the third case (which relates to existing systems and where the ITU is already in possession of the relevant information) the details of the proposed assignments must be received by the ITU-BR not earlier than eight years and not later than two years before the proposed assignments are brought into use.

Regulatory Requirements

This section applies to both planned and non-planned bands.

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

- a) the assignment being brought into use within a defined regulatory time limit (see No. 11.44.1 of the Radio Regulations);
- b) notification information; and
- c) due diligence information (ITU Resolution 49, see section 2.47), where applicable, being submitted within the defined regulatory time limit.

2.46 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.

Administrative Due Diligence - Resolution 49

2.47 In the majority of cases for proposed networks in FSS, MSS and BSS the submission of due diligence information to the ITU-BR is required in accordance with ITU Resolution 49 of the Radio Regulations. Resolution 49 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.

2.48 The primary reason for requiring this due diligence information is to avoid the reservation of orbital resources without actual use.

2.49 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.

Bringing into Use

2.50 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. (See No. 11.47 of the Radio Regulations).

World Radio Conferences

2.51 ITU WRCs, which are held approximately every three to four years, have the power to amend the Radio Regulations according to specific agenda items identified by the preceding conference. Amendments might include the revision of certain procedures, adding new technical criteria for sharing between services, the addition of new allocations to services etc. WRCs are attended by delegations from Member States. Subject to providing satisfactory credentials, Member States sign the Final Acts of the WRC by which the treaty (embodied in the ITU Constitution, Convention and Administrative Regulation) is amended.

Compliance with International Treaties

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

- a) the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies;
- b) the Convention on International Liability for Damage Caused by Space Objects; and The time limit is eight years for planned bands in Appendix 30 and 30A. For Appendix 30B planned bands, the due diligence information must be received before the date of bringing into use. Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies 1967, 610 UNTS 205.
- c) the Convention on Registration of Objects Launched into Outer Space.

2.53 In essence, the various United Nations space treaties and principles make the Nigerian government responsible for ensuring that space activities carried out by Nigerian individuals, companies or other organizations are consistent with the international obligations of Nigeria.

Part 2

NCC's Procedures for the Management of Satellite Filings

Section 3

The role of NCC

3.1 NCC has statutory duties under the Nigerian Communications Act, 2003 (the Act) and the Wireless Telegraphy Act, 1961 (WTA) to regulate the provision of electronic communications networks and services and the use of the electro-magnetic spectrum. More specifically, these duties include:

- (a) to facilitate investments in and entry into the Nigerian market for the supply of communications services, equipment and facilities (Section 4(1)(a) of the Act);
- (b) to protect and promote the interests of consumers and ensure the availability and quality of communications services, equipment and facilities (Section 4(1)(b) of the Act);
- (c) the promotion of fair competition in the communications industry and protection of communications services and facilities providers from unfair practices (Section 4(1)(d) of the Act);
- (d) management and administration of frequency spectrum for the communications sector (Section 4(1)(j) of the Act);
- (e) to carry out its functions and duties and exercise its powers efficiently, effectively and in a non-discriminatory and transparent manner (Section 4(2) of the Act);

NCC represents the Nigerian Government in the ITU and acts as the Nigerian notifying administration under ITU procedures in relation to international management of the radio spectrum and orbit resources. Provisions of the 2003 Act relevant to NCC's international functions, such as satellite filings, include the following.

- (a) Section 1(i) of the Act empowers the Commission to inter alia ensure efficient management of scarce national resources in the communications sub-sector, promote and safeguard national interest, safety and security in the use of the said scarce resources;
- (b) Sections 4(1)(v) of the Act provides that the Commission shall represent Nigeria at proceedings of international organizations and fora on matters relating to the regulation of communications.

3.2 The Act confers spectrum management functions for the communications sector on the Commission and this by implication includes the provision of advice and services and the maintenance of

records with respect to the use of the electromagnetic spectrum for wireless telegraphy at places within and outside Nigeria.

3.3 As mentioned, as regards international spectrum management, NCC is the Nigerian notifying administration to the ITU.

3.4 NCC is required to decide whether to process an application for a satellite network filing based on the criteria set out in sections 4.4 to 4.9 of this document.

Section 4

Submission of Satellite Network Applications

4.1 Applications and all related correspondence relating to satellite networks in planned and non-planned bands will be submitted by the applicant to NCC in electronic format, where possible, and in accordance with the format required by the ITU Space Services software. The filing procedure timescales described in section 7 of this document are taken from the date at which the relevant correspondence is received by the NCC from the applicant.

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

4.3 The filing of the satellite network with the ITU will not impede the capacity of NCC to perform its spectrum management and radio communications duties pursuant to the 2003 Act.

Application Criteria

4.4 Applicants must establish, to the satisfaction of NCC, 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.

4.5 NCC needs to be satisfied with the content of the management and technical due diligence products provided by the applicant, as defined for each stage in section 5 of this document. NCC will also need to be satisfied that the application is consistent with the ITU and the Nigerian tables of frequency allocations.

4.6 The applicant must be a company or organization registered, or having its headquarters, in Nigeria.

4.7 All applications must be signed by a duly authorized officer of the company or organization and will contain all necessary data required to support the application including, in particular, an undertaking that the company or organization will pay the relevant costs in relation to the ITU filing fees and the costs indicated in the Commission's schedule of fees.

4.8 The applicant must meet all relevant costs incurred by NCC and the ITU in the processing and coordination of the satellite network filing(s).

4.9 Filing data, including alphanumeric data, is to be provided in electronic database format utilizing the latest versions of the ITU Space Services software

Section 5

Due diligence requirements

5.1 ITU Resolution 49 requires national administrations to make submissions to the ITU in respect of the construction and launch (including timings) of its satellite networks. Administrations should, therefore, implement these obligations by imposing administrative due diligence requirements on operators. 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 period. 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.

5.2 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 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.

5.3 In addition to the requirements of Resolution 49, NCC requires to receive commercial information from applicants 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.

Requirements for administrative control of the network

5.4 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 NCC. Such a request might arise in the event of unacceptable interference being caused to an existing network.

Due Diligence Requirements Stage Deliverable

5.5 The following deliverables, where appropriate, are required to be provided to NCC at the following stages of the process. Any change to the business plan, including the key milestones, must be communicated to the Commission by the applicant immediately.

Stage 1

At or before the submission of API

- a. The business plan of the applicant setting out the key milestones of the project.
- b. Evidence of financial ability to meet the costs of construction and launch of the proposed satellites.

- c. Evidence of financial resources to operate the system for at least three years after launch.
- d. Supporting documentation must include:
 - (a) a balance sheet for the current financial year, together with a statement detailing the applicant's current assets and operating income; and
 - (b) a financial plan along with appropriate market research showing the intended sources of funding and estimated revenues, consistent with the business plan.

Stage 2

At or before the request for coordination

1. A copy of the relevant construction contract.
2. A copy of the relevant launch services contract (or, with the prior consent of NCC, this may be provided no later than six months prior to the planned launch date).

Stage 3

Before the submission of a request for coordination

1. A business plan showing progress at each stage against the milestones.
2. A full project report showing the financial, contractual and technical status of the project against the milestones specified in the business plan.
3. 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.

Stage 4

Before notification report specifying the status of coordination

Stage 5

Before bringing into use

1. Confirmation of a successful launch.
2. Confirmation of the number of satellites required to bring the system into operation.

Stage 6

Before submission of Resolution 49 data by the Commission to the ITU

1. Updated full project report showing progress against the milestones.
2. Confirmation of the frequency assignment(s) intended to be brought into use.

Milestone requirements and progress monitoring

5.6 Applicants will provide to NCC six-monthly progress reports for each satellite network indicating any variations from the previously submitted business plan and also details of their coordination progress and status. Such six-monthly progress reports will be provided to the Commission from the date of submission of the API by the applicant until such time as the assignment is registered in the Master Register.

5.7 NCC will assess the information provided in the six-monthly reports against the original business plan and its milestones to establish whether sufficient progress is being made to ensure that the project will be completed within the satellite network's regulatory time period, as specified in section 5.2.

5.8 In the event that a progress report indicates that, unless modified, the project will no longer be completed within the satellite network's regulatory time period, NCC 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. If corrective measures are not applied and a further six-monthly progress report shows no change in progress, the provisions set out in section 11 of this document will be applied by the Commission.

5.9 Once the relevant assignment(s) is recorded in the Master Register, the operator (formerly described as the applicant) will provide the Commission with yearly reports covering the assignment(s). The operator will provide these reports to the Commission, 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 its recorded characteristics and its business plan. The Commission will assess the information provided in the yearly reports to establish whether the assignment(s) are meeting these criteria. In the event that the Commission finds that the operator is not meeting these requirements, the Commission expects to consult with the operator and provide it with reasonable notice in which to apply corrective measures. If appropriate corrective measures are not or cannot be applied in order to bring the assignment(s) back into use or to enable it to operate in accordance with its recorded characteristics and its business plan within the notice period, the provisions set out in section 11 of this document will be applied by the Commission.

Section 6

Evaluation of applications

6.1 All applications will be considered against the criteria contained in this document before submission of the relevant filing information to the ITU-BR.

Non-planned frequency bands

6.2 The Commission will submit the filings to the ITU-BR in date order of receipt by the Commission of the complete applications. The Commission will not publish details of applications for non-planned assignments in advance of submission to the ITU.

6.3 The Commission will not submit notification data for the subject application to the ITU-BR unless coordination has already been completed with affected Nigerian networks with higher regulatory precedence. In order to evidence that coordination has so been completed, the applicant will submit copies of the completed coordination agreements to the Commission.

6.4 If the subject application is brought into use without coordination being completed with existing Nigerian 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 NCC exercising its powers under section 11 of this document.

6.5 Subject to section 6.3, the Commission will submit all valid filings to the ITU, even where there is a technical conflict with an existing Nigerian filing or filings. The Commission shall however highlight and notify ITU of any technical conflict with an existing Nigerian filing or filings.

This policy is subject to strict compliance with the diligence requirements set out in section 5 of this document, which the Commission will rigorously enforce.

Planned frequency assignments

6.6 With respect to new applications wishing to bring an unmodified Nigerian assignment or allotment into operation, the Commission will publish a notice indicating that an application has been received and invite other proposals. If additional applications are received, the Commission will then carry out an award process to determine which application, if any, to accept. Details of the award process will be made available at the time of publication of the notice.

6.7 If a proposed satellite filing is not technically compatible with a currently unused Nigerian assignment or allotment in a plan, NCC will publish a notice indicating that an application has been received and invite other proposals with regard to the best use of the resource before deciding how to proceed. The procedure which the Commission decides to follow may include the modification of the assignment to accommodate the successful application, in accordance with the ITU procedures.

6.8 If a proposed satellite filing is not technically compatible with the proposed or existing usage of an unmodified or modified Nigeria 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), i.e. an unmodified planned Nigerian assignment has been made available to an operator or an operator has already applied to modify such a planned Nigerian assignment, the applicant will be required to obtain the agreement of the operator of the affected assignment before the Commission can submit the new filing to the ITU.

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

Section 7

Detailed Commission's filing procedures

7.1 The procedures described below are based on the Radio Regulations (2004 Edition) and the Rules of Procedure (2005 Edition).

7.2 The performance of the Commission's functions, as set out in this section 7, is dependent upon the applicant satisfying the criteria stated in sections 4.4 to 4.9 of this document and the Commission receiving correct and complete information from the applicant at each stage of the process, as described below.

7.3 Each applicant is responsible for the provision of the appropriate information. On receipt of this information the Commission will conduct a

brief initial validity check of it. The Commission will not be responsible for procedural delays caused by incomplete or incorrect information being supplied to the Commission by the applicant. The Commission will aim to use its reasonable endeavours to meet the timescales set out in this section 7.

7.4 Any applicant who is concerned about matters of confidentiality should contact the Commission to discuss these concerns prior to submitting any information required in accordance with the Commission filing procedures.

7.5 The Commission will not submit comments under the ITU regulations on behalf of a Nigerian satellite operator in relation to satellite filings of another administration for satellites that are operated by that Nigerian satellite operator itself, its parent company, its subsidiary or a subsidiary of its parent company, for example in negotiations leading to a coordination agreement. The reason for this is to reduce the amount of coordination between administrations, as it assumed that the satellite operator will make appropriate sharing arrangements within its own organisation, as appropriate.

Non-planned bands - Advance Publication Information (API)

7.6 The Commission will acknowledge receipt of the API data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The API data will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this API data to the ITU-BR within five working days of receipt from the applicant. Applicants will be sent copies of the Commission

email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the API data.

Request for Coordination

7.7 The Commission will acknowledge receipt of the request for coordination data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The information will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this data to the ITU-BR, or identified administrations, within 10 working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU BR's email confirmation of receipt of the data.

Notification

7.8 The Commission will acknowledge receipt of the notification data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The information will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this to the ITU-BR within 10 working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITUBR and also of the ITU-BR's email confirmation of receipt of the data.

ITU Administrative due diligence - Resolution 49

7.9 The Commission will acknowledge receipt of the Resolution 49 data from the applicant within two working days and will then aim to submit this to the ITU-BR within five working days of its receipt. Information will be provided by the applicant in the current ITU software format. Applicants

will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Bringing into use

7.10 NCC will acknowledge receipt of the data from the applicant within two working days and will then aim to submit this to the ITU-BR within two working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Planned bands

7.11 There are two cases to consider:

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

Unmodified planned assignment (AP30, 30A and 30B)

7.12 Action under sections 6.6 and 6.11, as appropriate, will need to be completed before any action by the Commission under this section 7 is taken. The following procedures will then apply.

Notification

7.13 The Commission will acknowledge receipt of the data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The information will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this to the ITU-BR within five working days of its receipt from the applicant. Applicants will be sent copies of the Commission's email

submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

ITU Administrative due diligence - Resolution 49

7.14 The Commission will acknowledge receipt of the data from the applicant within two working days. Information will be provided by the applicant in the current ITU software format. The Commission will then aim to submit this to the ITU-BR within five working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Bringing into use

7.15 The Commission will acknowledge receipt of the data from the applicant within two working days and will then aim to submit this to the ITU-BR within two working days of its receipt. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Modifying a planned assignment or allotment or making an additional use (Appendices 30, 30A and 30B)

7.16 Action under sections 6.7 to 6.10 and 6.12, as appropriate, will need to be completed before any action by the Commission under this section 7 is taken. The following procedures will then apply.

Part A or Part B or AP30B submission

7.17 The Commission will acknowledge receipt of the data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The data will be provided to the Commission by the

applicant in the current ITU software format. The Commission will then aim to submit this data to the ITU-BR within 10 working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Notification

7.18 NCC will acknowledge receipt of the data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The data will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this data to the ITU-BR within 10 working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

ITU Administrative due diligence - Resolution 49

7.19 The Commission will acknowledge receipt of the data, as specified in Appendix 4 of the Radio Regulations, from the applicant within two working days. The data will be provided to the Commission by the applicant in the current ITU software format. The Commission will then aim to submit this data to the ITU-BR within five working days of its receipt from the applicant. Applicants will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Bringing into use

7.20 The Commission will acknowledge receipt of the data from the applicant within two working days and will then aim to submit this to the ITU-BR within two working days of its receipt from the applicant. Applicants

will be sent copies of the Commission email submission to the ITU-BR and also of the ITU-BR's email confirmation of receipt of the data.

Special Sections Publications

7.21 The obligations under the Radio Regulations that the Commission transfer to a satellite operator, as described in this document extend beyond the process leading to the recording of the assignments in the Master Register. Once the assignment is recorded the operator must engage in dialogue with the operators of later networks through the coordination process (as described in section 2.13 of this document).

7.22 In order to aid the national administrations and their operators in the coordination process, the ITU produces a fortnightly publication called the 'International Frequency Information Circular - Space Services' (Space BR IFIC) which contains details of space networks proceeding through the various stages of the coordination and notification procedures. 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 Commission, in turn, passes this obligation to operators.

7.23 The Special Sections are described in the preface for the BR IFIC11. In order to give each Nigerian operator the best advantage in coordinating its networks, the Commission, in its capacity as the Nigerian administration, wishes to respond to all Special Sections in an appropriate manner and in accordance with the Radio Regulations. Operators are responsible for examining Special Sections and responding appropriately to the Commission.

7.24 The BR IFIC can be obtained from the ITU for a one-off or annual subscription fee and comes in DVD-ROM format. The disc contains ITU software, Special Sections in PDF format and an Access Database. This database can also be downloaded, free of charge, from the website but the ITU recommends the use of the PDF versions published on the DVD-Rom as these are considered to be the definitive data source. The Special Sections contained on the BR IFIC are published in accordance with the procedures of Article 9 and Article 11 and Appendices 30, 30A and 30B of the Radio Regulations. A table containing a list of all current and previous Special Section types with descriptors is available on the ITU Website.

7.25 On receipt of comments from Nigerian operators in respect of networks published in the BR IFIC, the Commission 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 Nigerian filings. Copies of the correspondence will be sent to the relevant Nigerian operator(s).

7.26 When a comment is received from an operator regarding a Nigerian filing on the BR IFIC NCC will send the appropriate correspondence to the identifying operator and a copy to the originator. Comments must be received by the Commission 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.

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

7.28 Copies of all other correspondence received by the Commission which relate to Nigerian filings will be forwarded by the Commission to the relevant operator(s) within 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 Commission declared response date, whichever is applicable.

Section 8

Authorisation of applicants to conduct coordination directly

8.1 The Commission may consider requests from applicants to be given 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 in accordance with the procedures of the Radio Regulations.

8.2 The Commission may attend an operator to operator coordination meeting:

- a. at its discretion;
- b. at the request of the satellite network operator; or

c. at the request of another administration.

Scope of authorisation

8.3 Such authorisation in 8.1 above will be given by the Commission in a letter of introduction to the other administration, copied to the Nigerian applicant concerned. This letter will confirm that the applicant has the Nigerian administration's authorisation, with respect to the specified networks, to:

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

8.4 The letter of introduction will make it clear that:

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

Reporting requirements

8.5 The operator must provide the Commission 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.

Part 3 – Fees

Section 9

Scale of fees

9.1 In managing and administering the frequency spectrum for the communications sector in accordance with the provisions of Section 121 of the Act and WTA, NCC may provide a service to any person on such terms as it may determine in advance or as may be agreed between that person and NCC and in either situation, such terms and conditions may include the payment of fees by the person to the Commission. Services provided to Nigerian satellite network operators in regard to the filing, coordination and registration of applications with the ITU are considered to be included within this provision. Accordingly, when a frequency assignment for a satellite network is in use or in the process of being coordinated, the operator will be subject to the relevant charging regimes of the ITU and the Commission.

Table: Scale of fees

1. Fixed Satellite Transmit/Receive Earth station
 - a. Initial Application (per Station) N1,000,000.00
 - b. Modification of License (per Station) N100,000.00
 - c. Renewal of License (per Station) N500,000.00

2. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems
 - a. Initial Application for Registration or License (per Station) N500, 000.00
 - b. Modification of License or Registration (per Station) N100, 000.00
 - c. Renewal of License (per Station) N250,000.00

3. Mobile Satellite Earth Stations
 - a. Initial Application (per Station) N1,000,000.00
 - b. Modification of License (per Station) N100,000.00
 - c. Renewal of License (per Station) N500,000.00

4. Radio Determination Satellite Earth Stations
 - a. Initial Application for Blanket Authorization N1,000,000.00
 - b. Initial Application for Individual Earth Station N500,000.00
 - c. Modification of License (per System) N100,000.00
 - d. Renewal of License (per System) N500,000.00

5. Space Station (GSO)
 - a. Application for Authority to Launch and Operate
 - i. Initial Application N10,000,000.00
 - ii. Replacement Satellite N10,000,000.00

6. Space Stations (NGSO) Earth Observation Only
 - a. Application for Authority to Launch & Operate
 - i. Initial Application N1,000,000.00
 - ii. Replacement Satellite N1,000,000.00

ITU

9.2 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.

9.3 The ITU Finance Department raises its invoices for fees incurred in processing a satellite network filing directly against the satellite network operator concerned. Invoices are sent to the Commission and the

Commission will then forward these to the operator concerned. On receipt, the operator will make the payment directly to the ITU by the required date and will inform the Commission that the payment has been made.

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

9.5 The Commission will recover its costs in accordance with the fee regimes which are specified by NCC and reviewed annually.

Part 4 - Transfer and Cancellation of Filings

Section 10 Section 4

Transfer of a Nigerian Satellite Network Filing by one operator to another operator

Request for Transfer

10.1 A Nigerian satellite operator may make a request to NCC to transfer, from that requesting satellite operator to another Nigerian satellite operator, the ownership and control of a filing which is either:

- a. notified and recorded in the Master Register and in operation; or
- b) still in the process of coordination.

10.2 Any transfer must be between companies or organisations that meet the criteria contained in sections 4.4 to 4.9 of this document.

10.3 Any transfer requires the Commission 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 5.

10.4 The Commission reserves the right to consult publicly prior to authorising any transfer described in section 11.1.

10.5 The Commission has 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.

Section 11

Cancellation, relinquishment and reassignment by the Commission of Nigerian satellite networks filings

11.1 A Nigerian satellite operator may relinquish the use of an assignment in either a planned or non-planned band which is either:

- a) notified and recorded in the Master Register and in operation; or
- b) still in the process of coordination, to the Commission to offer for re-assignment.

11.2 In the event that a Nigerian satellite operator notifies the Commission that it wishes to relinquish an existing filing, the Commission will publish a notice indicating that the filing has become available for reassignment and invite expressions of interest from other Nigerian satellite operators who meet the criteria set out in sections 4.4 to 4.9 of this document, and the appropriate criteria as set out in section 5 of this document. There are then three scenarios as follows.

- a) In the event that there are no expressions of interest, the filing will be cancelled by the Commission, in accordance with the relevant ITU procedures.
- b) In the event that only one expression of interest is received by the Commission, the Commission may reassign the filing to the satellite operator submitting the expression of interest.
- c) In the event that more than one expression of interest is received by the Commission and may conduct an award process, details of which will be made known at the time of publication of the award notice, to determine which application to accept.

11.3 In the event that a Nigerian satellite operator relinquishes a filing which is still in the coordination process, the Commission will publish a notice indicating that the filing, which is still in the coordination process, has become available for reassignment to another operator. The Commission will invite expressions of interest from other Nigerian satellite operators who meet the criteria set out in sections 4.4 to 4.9 of this document, and the appropriate criteria, depending on the stage of the process, as set out in section 5 of this document and as agreed in discussions with the Commission. Again, there are three scenarios which may be followed.

- a) In the event that there are no expressions of interest, the coordination process will be cancelled by the Commission.
- b) In the event that only one expression of interest is received by the Commission and may reassign the responsibility for the coordination process to the satellite operator submitting the expression of interest.
- c) In the event that more than one expression of interest is received by the Commission and may conduct an award process, details of which

will be made known at the time of publication of the award notice, to determine which application to accept.

11.4 There will be no consideration given to an operator relinquishing a filing.

Cancellation and Reassignment due to Non-Compliance with Due Diligence Requirements

11.5 Sections 11.5 to 11.9 will apply to the use of an assignment in either a planned or non-planned band which is either:

- a) notified and recorded in the Master Register and in operation; or
- b) still in the process of coordination.

11.6 As stated in section 5 of this document, applicants will provide the Commission with due diligence documentation and progress reports for each satellite network indicating any variations from the previously submitted business plan 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 Commission 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 Commission will assess the facts, circumstances and next stages of each case individually.

11.7 If, in the Commission's opinion, there is insufficient evidence of progress as against the milestone commitments on the basis of the information supplied by the operator, the Commission will consult with the relevant operator. The Commission will provide the operator with an

opportunity to remedy the situation, to ensure that progress is brought into line with the milestone commitments, within a specified timeframe.

11.8 The Commission would expect that if the operator fails to remedy the situation within the specified timeframe, referred to in section 11.7, the Commission may cancel the filing or may seek to reassign it to another operator in accordance with the procedures set out in sections 11.1 to 11.3.

Other Reasons for Cancellation and Reassignment

11.9 In the event that the operation of a Nigerian satellite network or system causes harmful interference to other satellite networks or systems, the Commission 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 months the Commission may suspend the filing in accordance with No. 11.49 of the Radio Regulations. If within the period of suspension the Commission is satisfied that the interference has been remedied, the Commission 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.

11.10 In the event that it is established by the Commission that a Nigerian satellite network or system is operating outside either:

- a) its characteristics as recorded in the Master Register; or
- b) in the case where the ITU-BR has not completed the processing of the notice in accordance with Article 11 of the Radio Regulations, the

notified characteristics of the satellite network or system, the Commission will consult with the relevant operator and request that the matter is remedied within six months.

11.11 If the matter described in section 11.10 has not been remedied within six months the Commission may either suspend or cancel the assignment.

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

Glossary

For the purpose of this document, the following terms will apply.

Administration

Any governmental department or service responsible for discharging the obligations undertaken in the Constitution of the ITU, in the Convention of the ITU and in the Administrative Regulations.

Allocation

Allocation of a frequency band. Entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radio communication services or the radio astronomy service under specified conditions. This term will also be applied to the frequency band concerned.

Allotment

Allotment of a radio frequency or radio frequency channel. Entry of a designated frequency channel in an agreed plan, adopted by a competent conference, for use by one or more administrations for a terrestrial or space radio-communication service in one or more identified countries or geographical areas under specified conditions.

API

Advance Publication Information. First part of the ITU process for coordination and notification of frequencies used by satellite networks. Consists of data on proposed new satellite networks provided to the ITU-BR by the notifying administration responsible for the network, as described in Section I of Article 9 of the Radio Regulations.

Assignment

Assignment of a radio frequency or radio frequency channel. Authorisation given by an administration for a radio station to use a specific radio frequency or radio frequency channel under specified conditions.

BR IFIC

Radio communication Bureau International Frequency Information Circular (Space Services). This contains information on proposed satellite networks and indicates which existing networks require coordination. It is published by the ITU-BR on a bi-weekly basis.

Co-ordination

This term refers to the process under which a new user seeks the agreement of existing users to share access to a particular range of frequencies while avoiding harmful interference.

Due diligence

Process by which NCC ensures that an application to launch and operate a satellite network demonstrates sufficient technical, financial and legal credentials and by which progress against milestones is monitored.

Earth Station

A station located either on the Earth's surface or within the major portion of the Earth's atmosphere and intended for communication with one or more space stations or with one or more stations of the same kind by means of one or more reflecting satellites or other objects in space.

Filing

A description of the frequency assignments of a satellite network in terms of the characteristics contained in a submission to the ITU-BR. The characteristics include orbital parameters (position for GSO or other parameters for non GSO), space station transmission and reception parameters (including frequency bands, emission bandwidth, power, antenna gain, receiver noise temperature), earth station parameters (location and transmission/reception parameters), type of service (fixed satellite, mobile satellite etc), coverage area and service area (in terms of footprint on the Earth).

Frequency Band

A defined range of frequencies that may be allocated for a particular radio service, or shared between radio services.

Interference

The effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radio-communication system, manifested by any performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy.

ITU-BR

International Telecommunication Union Radio -communication Bureau.

Master International Frequency Register (Master Register)

An ITU database in which all notified frequency assignments and common frequencies are registered. It consists of lists set out by every administration indicating its coordinated frequencies, its assigned preferential frequencies, its shared frequencies, its frequencies coordinated for planned radio-communication networks and its frequencies used on the basis of geographical network plans.

Notification

The process whereby frequency assignments of a network are recorded on the Master Register and by which these assignments gain international recognition and protection

NCC

Nigerian Communications Commission

Radio Spectrum

That section of the electromagnetic spectrum comprising frequencies in the range of approximately 10 kHz to 3000 GHz. A kHz (kilohertz) is a frequency of one thousand cycles per second. A GHz (gigahertz) is a frequency of one thousand million cycles per second.

WRC

A World Radiocommunication Conference, one of the principal activities of the ITU Radiocommunication Sector (ITU-R), is convened normally every three to four years to consider specific radiocommunication matters. A World Radiocommunication Conference deals with those items which are included in its agenda, including the partial or, exceptionally, complete revision of the Radio Regulations.