

REVIEW OF SATELLITE LICENCE FEES

**BY THE
AUSTRALIAN COMMUNICATIONS AUTHORITY
(ACA)**

**RESPONSE BY THE
SATELLITE INDUSTRY ASSOCIATION (SIA)**

22 May 2003

Background on Satellite Industry Association (SIA)

SIA is a U.S.-based trade association representing the leading U.S. and international satellite manufacturers, service providers, and launch service companies. SIA serves as an advocate for the commercial satellite industry on regulatory and policy issues common to its members. With its member companies providing a broad range of manufactured products and services, SIA represents the unified voice of the commercial satellite industry.¹

General Position

SIA welcomes the invitation to provide comments to the ACA Review of Satellite Licence Fees. In general, we support the objectives of the current licensing system, and the methodology used to set licence fees and the implementation of licensing by the ACA. However, the three issues of most concern to the satellite community, auctioning international satellite spectrum, methodology for pricing spectrum, and license tenure, all require comment. Comments on the ACA's proposal will focus entirely on those three issues.

SIA's key points are as follows:

- Auctions are anathema to satellite operators and are likely to have damaging results on the ability of satellite operators to serve the Australian market, especially for international systems. For mobile satellites systems, any loss of global coverage risks making the business case unsustainable;
- Fees for satellite spectrum should be based on recovering administrative costs only. However, if non-cost prices were charged, responsible pricing and regulatory certainty requires a ceiling on spectrum prices be retained. This

¹ SIA's membership includes Executive Members The Boeing Company; Globalstar, L.P.; Hughes Network Systems, Inc.; ICO Global Communications; Intelsat; Lockheed Martin Corp.; Loral Space & Communications Ltd.; Mobile Satellite Ventures; Northrop Grumman Corporation; PanAmSat Corporation and SES Americom, Inc. and Associate Members Inmarsat, Verestar and New Skies Satellites Inc.

approach would protect satellite licensees from excessive charges that would limit their ability to provide competitive services to the Australian public

- License tenure is critically important to satellite system planning and financing. Therefore license duration should be extended to the maximum duration possible and, more importantly, licenses should carry an explicit presumption of automatic renewal.

Auctions

The ACA would welcome comment on the scope for making more use of auctions for allocating satellite licences.

SIA believes that allocating satellite licences by auction has no discernable public benefit for the Australian consumers. Provision of satellite services is a highly capital intensive business with few real players on any substantial scale. The Australian Government's experience in owning Aussat demonstrated the need for careful use of capital and operating expenses.

The SIA does not support the ACA's use of auctioning as a means to regulate the market. We believe that the ACA should focus its efforts on recouping costs while preserving competition in the satellite marketplace. For many reasons, auctions would almost certainly lead to fewer providers and, therefore, less competition.

For example, consider the problem with auctions for orbital positions covering a number of countries. It is unlikely that a satellite company would risk paying the price to win an auction in one country while unsure of getting the licence for an adjacent country. Moreover, the satellite company may not be financially viable unless it obtains licences in multiple countries. This is particularly true for mobile satellite systems addressing a niche market consisting of professional users travelling globally. To serve them, it is essential to cover all parts of the globe. The prime condition for this service is the availability of uniformly recognised allocation of spectrum on a worldwide basis.

Cash flow problems would be exacerbated, with idle cash locked up in one administration while awaiting a complementary auction in another country. Given the amounts of money traditionally considered for these auctions, the financial requirements to win an auction could be catastrophic to the overall business plan of the satellite system.

Thus, sequential spectrum auctions in multiple countries would deter investment in satellite systems by raising costs and by adding regulatory uncertainty to system design and implementation. In the USA, the Open-Market Reorganization for the Betterment of International Telecommunications (ORBIT) Act prohibits the FCC from auctioning international satellite orbital and spectrum allocations, recognising the adverse national and international consequences that would ensue.

The reality of international satellite operations is that much of the demand for orbital positions is illusory, created by paper satellites that will never fly. Before licensing they can examine the track record of applicants or, in the case of new companies, the track record of directors and the commitment of financiers.

Satellite Licensing

The ACA paper indicates that the licensing regime:

“helps to maintain equity and consistency in the way that similar, and competing, wireless services (such as broadcasting, internet access, fixed and mobile telephony, data services, corporate data, video conferencing and aggregated telecommunications data) are regulated. The fees for satellite licences are calculated according to the same method as fees for other radiocommunications services”.

The SIA supports this principle. We also support the ability for either the satellite operator or the ground segment operator to apply for and obtain the license. These alternatives acknowledge the variety of services that exist within the satellite industry and ACA's current approach is to be commended.

License Tenure

The ACA invites comment on what could be done to provide greater security of tenure for satellite licenses.

The satellite industry relies heavily on financing in establishing and operating its business. Financial institutions focus very closely on a company's ability to provide the required services and typically examine the duration of a license to determine long-term viability. Given the 15-18 year life span of GSO satellites, as well as the value of building business and infrastructure for service from a given orbital location, and the number of dishes that would be pointed there, having license terms be of a relatively short term, say 1-5 years, raises doubts about whether or not the satellite operator will be able to operate the service long enough to gain the necessary revenues and repay its debt obligations. Thus, the presumption of license renewal upon expiration is of great importance to satellite operators and the related financial community. Consequently, SIA would support the Government intention in response to the Productivity Commission's Radiocommunications Inquiry to introduce an explicit presumption of renewal.

Recovering Direct and Indirect Costs of Spectrum Management

The ACA would welcome comment on how it could improve the current system of recovering the costs of managing spectrum allocated for satellite systems from the beneficiaries.

Unlike domestic terrestrial or wireless services, where spectrum utilized by one operator can essentially be denied for use by other operators, international orbital positions are coordinated on an international level with neighbouring satellite systems and therefore the same frequencies could be utilized in Australia by other satellite operators utilizing different orbital positions (frequency re-utilization).

It is important to recognize the unique nature of the international satellite business, in order to highlight the potential detrimental effects that can result when governments attempt to introduce additional or increased licensing or spectrum fees.

The business of purchasing, launching and operating an international satellite is highly capital intensive, with typical up-front costs of approximately US \$250 million dollars. Since satellite technology allows for the coverage of multiple countries and regions within a given footprint, it is important that the satellite operators have complete knowledge of the regulations governing the sale of satellite capacity in each of the countries covered in the footprint. If countries begin to implement special fees applicable to the sale of space segment, whether they are spectrum fees or licensing fees, the operator will need to adjust its prices accordingly in that market. If every country in the footprint of a satellite were to implement special fees on the sale of space segment, it would significantly increase the operator's costs, thereby resulting in higher prices for its customers. To provide one example, Internet access to rural areas, which we understand to be one of Australia's policy goals, would be harder to achieve if the costs for the satellite operators were to increase. Any additional licensing and/or spectrum fees would be passed onto the customer, potentially affecting the affordability of the service.

Increased spectrum and/or licensing fees could also affect the capacity available in a given country. If the operator determines that the fees imposed locally are excessive, it could choose to dedicate the capacity to other countries and could take this issue into consideration when designing the coverage of future satellites.

SIA believes it is fundamental that fees imposed on satellite operators in specific countries be limited to cost recovery in order to assure the continued provision of satellite capacity, which is vital to the development of rural communications and the continued growth of commercial communications.

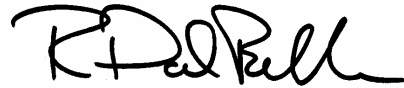
SIA believes that continuous bandwidth pricing may be implemented to remove major anomalies in the fee scale, but responsible pricing and regulatory certainty also requires a ceiling that spectrum prices would not exceed and no user should be worse

off. This would protect satellite operators from excessive charges that would limit their ability to provide competitive services to the Australian public.

Conclusion

SIA thanks the ACA for the opportunity to express our views on these important topics. Our main points are that auctions are unworkable for satellites, fees for spectrum should be implemented on a cost-recovery basis only, and that the long on-orbit life of a satellite requires proportionately long license tenure.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Richard DalBello', written in a cursive style.

Richard DalBello
President, SIA