

European Satellite-Fleet Operators Alarmed Over EU Telecom Proposal

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PARIS – European satellite-fleet operators are raising the alarm about legislation moving through the European Union (EU) that would introduce a regulatory review of radio-frequency licensees after five years and undermine the authority of the International Telecommunication Union (ITU) in favor of the EU.

The proposed legislation also could result in de facto discrimination against satellite telecommunications systems under a banner of "technology neutrality" that does not take into account the special case nature of the satellite communications business, the operators say.

The European Satellite Operators Association (ESOA), whose members operate 90 telecommunications satellites in geostationary orbit, said "many of the benefits brought to citizens by satellites could be negatively affected and the investment climate for the satellite sector as a whole drastically impacted" if certain proposed language finds its way into the final Telecoms Review law being debated by the European Parliament.

The full parliament is scheduled to review the law in late September during a plenary session, after which the text would go to EU ministers for final review.

ESOA members, including SES of Luxembourg and Eutelsat of Paris — the world's largest and third-largest satellite fleet operators by revenue, respectively — are hoping to avoid a situation in which EU legislators end up striking an unintended blow against the commercial satellite telecommunications industry.

The European Commission, which is the EU's executive arm, in the past has pursued policy objectives without ensuring full coordination with the ITU, a United Nations affiliate that coordinates broadcast frequencies and satellite orbital positions worldwide. The EU Commission is raising its profile in satellite communications and frequency allocation but it is still individual EU member nations, and not the EU Commission, that have full voting power at the ITU.

ESOA wants to be sure that the EU Commission, in its attempt to forge an EU identity in the place of its member states, does not deal a blow to ITU regulations.

In a July 29 presentation in Paris, ESOA said "the ITU system of registering orbital slots and associated frequencies should not be compromised. The ITU system ... works well" via the administrative role of individual EU member states, the organization said.

Aarti Holla-Maini, ESOA's secretary general, said the organization was surprised to see that "the commission is deleting all reference to the ITU" in its telecoms review. "We have heard some in the commission say that the EU should have its own voice. The commission is not bound by ITU rules, but its member states are, and we see a potential danger here."

Eutelsat and SES already have criticized the commission for the way it is handling licenses for S-band mobile video services, saying the Brussels, Belgium-based commission appears to be ignoring ITU practice.

Early versions of the Telecoms Review now moving through the European Parliament featured language that appeared to require that broadcast licenses be renewed every five years. ESOA has protested that a satellite system, which takes two to three years and more than \$200 million to build and launch before the first revenue arrives, cannot attract investors unless the operator is certain that its license will be valid at least for the 15 years of service life of the satellite.

The more-recent language dilutes that requirement, but retains a reference to a five-year regulatory milestone. Holla-Maini said ESOA is concerned that a strict five-year license limit may be reinserted into the law's language. "We are not sure how this occurred," she said. "Some parliamentarians wanted a 10-year review, others an open-ended license, and so a compromise was reached of five years."

The EU Commission has long said its regulations are designed to assure "technology neutrality," meaning they should not have the effect of reducing the market access of one technology, such as satellite transmissions, in favor of terrestrial technologies.

But for ESOA, technology neutrality can be used to scuttle the viability of satellite systems if, for example, each nation is free to assign frequencies in ways that are different from its neighbors.

The business model of most satellite communications relies on broad-area coverage within a satellite's footprint. A patchwork of regulatory regimes inside the footprint will have the effect of making the satellite system uneconomic.

In the worst case, differing regulatory regimes from one nation to another can lead to satellite signals being jammed by terrestrial wireless transmitters operating legally in a bordering country. This was the issue that was debated at the ITU's World Radiocommunication Conference in late 2007. The meeting ended with a decision that maintained each nation's rights to use a portion of the C-band spectrum for terrestrial wireless broadband, while protecting the priority of satellite systems operating in the same portion of C-band.

Despite being home to several of the world's most successful satellite-fleet operators, EU nations were behind the effort to eliminate the priority given to satellite systems, saying this priority will limit the roll-out of promising new technologies such as WiMax.

"This issue still is not fully resolved in Europe," Holla-Maini said. "Efforts are still under way to permit terrestrial wireless to gain access to C-band even though this causes severe interference with satellite signals. In this case, 'technology neutrality' does clear harm to the satellite sector."