



MARKET ACCESS PRINCIPLES & OPEN SKIES POLICY

Experience in many jurisdictions has shown that an “Open Skies” policy promotes the growth of satellite services and choices, lowers end user prices through competition, expands economic growth as essential telecom services and Internet connectivity are deployed beyond the reach of terrestrial services, enhances advanced service development by creating inter-modal competition to terrestrial services, and stimulates investment in infrastructure.

Specifically, an Open Skies approach allows nationally-authorized service providers to choose any satellite operator or satellite service provider to distribute the specific services to the specific service area(s) required for their end-users (national and international). An Open Skies approach does not treat foreign satellite systems any differently than national satellite systems. An Open Skies policy does not impose artificial limits on market entry, excessive licensing fees, or unnecessary formalities beyond registration of technical criteria on foreign satellite operators.

However, certain countries in different regions of the world do impose restrictive regulatory procedures and unfavourable treatment on 'foreign' satellite operators including burdensome licensing conditions, disparate fiscal treatment, and requirements of national presence. These inhibit the development of a global communications infrastructure as well as the evolution of national communications infrastructure. Such discriminatory treatment directly affects the ultimate choice of services that distributors can offer to end-users, as well negatively impacting service costs to end-users.

Hence, ESOA¹ urges governments and their national regulatory authorities (NRAs) to adopt clear Open Skies principles to reduce regulatory and market access barriers for the provision of satellite services. These principles are:

1. **Provide Transparent, Non-Discriminatory Procedures.** Licensing procedures should be streamlined and transparent and should be the same regardless of whether accessing domestic or foreign satellite systems. Countries should be encouraged to act on foreign satellite access applications within a reasonable period of time, not to exceed six months, and to apply procedures and fees that are no less burdensome than those for use of national satellite systems.

¹ The European Satellite Operators' Association (“ESOA”) represents the interests of the satellite industry with key national, European and international organisations. ESOA's goals include ensuring that satellites benefit from the appropriate political, industrial and regulatory environment to fulfill their vital role in the delivery of communications. Members of ESOA are: EADS SPACE Services, Eurasiasat, Eutelsat, HellasSat, Hispasat, Inmarsat, SES, SES Sirius, Telenor Broadcasting Holding and Telespazio. In addition, Arianespace, Avanti, EADS Astrium, International Space Brokers and Mansat are Supporting Members of ESOA. Further details about the ESOA can be found at www.esoa.net



2. **Eliminate Local Entity/Local Presence Requirements.** Many administrations around the world grant market access to foreign satellite systems without requiring local establishment or incorporation. These countries recognize that it would be infeasible for global satellite operators to maintain corporate subsidiaries and branch offices in all countries in their coverage areas. To facilitate cross-border services, many countries require only a local post address to receive official licensing correspondence. ESOA urges NRAs to streamline their procedures so that foreign satellite operators are not required to be licensed through a local company.
3. **Provide National Treatment for Foreign Satellite Operators.** Most Favored Nation (“MFN”) exemptions and any other limitations that put European satellite operators at a disadvantage should be avoided.
4. **Eliminate Burdensome Frequency Coordination Requirements.** Market entry should not be denied if the multi-year coordination process has not been definitively completed. Rather, the ITU frequency coordination process should address actual technical issues in a separate process. Authorization can be conditioned with the requirement to undertake ITU coordination. ESOA urges NRAs to adopt similar policies and not block the market participation of European satellite operators by requiring (and potentially withholding) *completion* of international coordination.
5. **Eliminate Monopolies.** No special monopoly status should be afforded to incumbent telecommunications operators or satellite systems. Foreign satellite operators should not be obligated to use national incumbents as intermediaries in the sale of foreign satellite capacity. Foreign operators should be able to sell satellite capacity directly to any nationally-licensed operator, such as to a broadcaster, telephone company, internet service provider, corporation/enterprise, VSAT service provider.
6. **Permit the Transport of Video Signals and Associated Audio Signals.** ESOA urges NRAs not to prohibit the delivery of video and associated audio services via satellite (including exclusions by law, through a country’s WTO offer or via a bilateral reciprocity agreement). There is a critical difference between (1) the lease or sale of satellite capacity to a nationally-authorized service provider (telecoms or broadcaster), and (2) the content that those nationally-authorized service providers select to distribute via satellite. The majority of satellite operators do not directly select and offer content or programming. Nationally-authorized service providers should be allowed to use foreign satellite operators to deliver video programming and associated audio signals since this is merely a transport service of the content developed by licensed broadcasters and telecoms providers.