Australian satellite filing procedures

Draft for consultation

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# Introduction

 **Please note:**

Areas of key proposed changes are shaded blue for ease of reference.

## Purpose

This document describes the ACMA’s policies and procedures regarding the assessment and submission of satellite filings to the International Telecommunication Union (ITU). It sets out:

the ACMA’s application and assessment process for a new or modified ITU satellite filing

procedures for approved applicants and the ongoing obligations of satellite operators.

The information in this document reflects the ACMA’s current policy in relation to Australian satellite filing procedures. We reserve the right to deviate from these procedures, in our absolute discretion, if warranted by the circumstances of a particular application or under a lawful direction from the Minister for Communications.

If you have questions concerning a satellite filing that are not addressed in this document, they should be referred to The Manager, Space Systems Section:

by email to: satellite.coordination@acma.gov.au,

or by post to:

The Manager

Space Systems Section

Spectrum Planning and Engineering Branch

Communications Infrastructure Division

Australian Communications and Media Authority

PO Box 78

Belconnen ACT 2616

## Background

### Satellite filing and International Telecommunication Union (ITU)

The ITU is a specialised agency of the United Nations that facilitates global cooperation in the use of information and communication technologies. The legal framework of the ITU comprises the Constitution, Convention and Administrative Regulations (of which the Radio Regulations are a part).[[1]](#footnote-2) Together, these instruments aim to facilitate the rational, equitable, efficient and economical use of the radiofrequency spectrum and associated orbits for satellite systems, and frequency coordination of satellite systems. A complete overview of these regulations is beyond the scope of this document – further information is available from the [ITU website](https://www.itu.int/en/ITU-R/Pages/default.aspx).

Under the ITU Radio Regulations – a binding international instrument to which Australia is a signatory – national administrations of ITU member states may file satellite systems with the ITU.[[2]](#footnote-3) That is, the ITU only accepts satellite filings from administrations. In Australia, the ACMA acts as the Australian administration in the ITU satellite filing process.

The Radio Regulations specify the international process of coordination and publication of technical parameters for satellite systems. In Australia, this involves satellite operators providing technical information about a satellite system to the ACMA, which in turn submits it to the ITU (that is, ‘files’ it). The ITU publishes the information and the administrations of other ITU member states assess the published system to determine whether it might cause interference to their terrestrial or satellite systems. This information submitted to and published by the ITU is referred to as an ITU satellite filing. The initial publication of a satellite system starts a process known as satellite frequency coordination.

The purpose of a satellite filing and the satellite frequency coordination process is to gain international recognition of the radiofrequency spectrum and orbital resources used by a satellite system. This process leads to the ITU recording the technical data and frequency assignments of the system in its Master International Frequency Register (MIFR). This operates as a ‘first-in-time system’,[[3]](#footnote-4) whereby any new satellite system must coordinate with administrations identified by the ITU before it can be recorded in the MIFR.[[4]](#footnote-5)

Satellite operators may approach any national administration, including the ACMA, to undertake this work. Each national administration may set its own policies about which satellite operators it will accept.

### Role of the ACMA

In Australia, satellite filing work is considered a spectrum management function under the [*Australian Communications and Media Authority Act 2005*](https://www.legislation.gov.au/Series/C2005A00044)(ACMA Act).[[5]](#footnote-6) In undertaking this work, the ACMA also considers the international regulatory framework of the ITU, other treaty-level agreements, and Australian law. The ACMA undertakes satellite filing work on a cost recovery basis.

Any information related to a satellite system submitted to the ITU by the ACMA remains the responsibility of the ACMA (for the Commonwealth of Australia) as only administrations of ITU member states can submit, modify or suppress information related to satellite systems, and exchange coordination information with other administrations. Through submission of information to the ITU, the ACMA obtains access to deal with the ITU’s published information associated with the satellite system and, if brought into use and recorded by the ITU in the Master International Frequency Register, the radiofrequencies and orbits for the satellite system.

The ACMA may, in accordance with the provisions of this document, provide for the exclusive use of an ITU satellite filing to a satellite operator. However, this does not confer a right to operate a satellite in Australia. As for all other types of radiocommunications, a satellite system may not be operated in Australia without a licence issued by the ACMA. A satellite filing (either filed through Australia or another country) is a necessary prerequisite that must be in place before an apparatus licence can be issued.

### Use of an ITU satellite filing

Satellite filings submitted to the ITU by the ACMA, acting as the administration of Australia, will remain the responsibility of the ACMA (for the Commonwealth of Australia), on the basis that only administrations of ITU member states can deal with satellite filings.

When the ACMA submits a satellite filing to the ITU on behalf of a satellite operator, the satellite operator gains exclusive access to this filing. To the extent permitted under Australian law and in accordance with Australia’s international obligations, this allows the satellite operator to:

engage in international coordination agreements in relation to the satellite system as it sees fit

gain international recognition of operation of stations on a physical satellite in accordance with the parameters of the satellite filing and any related coordination agreements, and in accordance with the Radio Regulations and with the Australian satellite filing procedures (this document).

As the responsible administration for Australian satellite filings, the ACMA does not consider a satellite filing as an asset that can be traded.

### Filing does not confer a right to license

The ACMA agreeing to file a satellite system with the ITU does not confer a right to operate a satellite system under the *Radiocommunications Act 1992* in Australia and there are other requirements beyond those considered in this document that need to be fulfilled before such operation can commence.

### Cost recovery

Both the ACMA and the ITU undertake satellite filing on a cost recovery basis. ACMA charges are set out in the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245)*.* ITU cost recovery fees are specified in ITU [Council Decision 482](https://www.itu.int/ITU-R/go/space-cost-recovery/en). Satellite operators are required to pay the ITU fees in advance of the ACMA submitting a filing to the ITU.

For each calendar year, an administration can nominate one of their satellite filings submitted that year as a [free entitlement](https://www.itu.int/net/ITU-R/space/costrec/free_ent.asp). As financial viability of the applicant is part of our assessment process, which includes the ability to pay all relevant ITU charges, the ACMA’s normal practice is not to utilise the free filing entitlement.

## Scope

This document covers matters relating to ACMA requirements for the filing of satellite systems with the ITU, including the role and responsibilities of the ACMA, application procedures and, for approved applicants, requirements for participating in the ITU filing process and ongoing obligations.

Throughout this document we use the term ‘satellite system’ as defined in the Radio Regulations,[[6]](#footnote-7) as it is a broad term covering both geostationary orbit (GSO) and non-geostationary orbit (NGSO) systems. In certain circumstances, we use the narrower term satellite network,[[7]](#footnote-8) for example, when discussing requirements that apply to GSO satellite networks or considering ITU requirements that refer specifically to a ‘satellite network’.

## Matters not in scope

Matters that are outside the scope of this document (and in some cases ACMA responsibilities) are outlined below, together with references for further information.

### Deeds of agreement

Before 2012, satellite filing involved the use of [deeds of agreement](https://webarchive.nla.gov.au/awa/20120316184229/http%3A/www.acma.gov.au/WEB/STANDARD/pc%3DPC_537) between the ACMA and a satellite operator. The use of deeds was discontinued in 2012 as a result of a [review](https://webarchive.nla.gov.au/awa/20101018222531/http%3A/acma.gov.au/WEB/STANDARD/pc%3DPC_312294) of the ACMA’s satellite filing procedures.

Satellite systems operating under existing Deeds of Agreement are not subject to the procedures described in this document,[[8]](#footnote-9) unless otherwise agreed to in writing between the ACMA and the satellite operator. The exception to this is charges for ITU satellite filing work, including ACMA cost recovery charges. See section 6 Charges.

### Radiocommunications licensing

As for all other types of radiocommunications, a space-based radiocommunications system may not be operated in Australia without a radiocommunications licence which is separate to the ITU satellite filing. In general, there are 2 broad options for licensing space systems in Australia.[[9]](#footnote-10)

The first option requires operators to obtain apparatus licences for each of their earth station transmitters and receivers individually: either an [earth](https://www.acma.gov.au/licences/earth-licence-0) licence or [area-wide apparatus licence](https://www.acma.gov.au/area-wide-apparatus-licence) (limited to certain bands)[[10]](#footnote-11) for the uplink and an [earth receive](https://www.acma.gov.au/licences/earth-receive-licence) licence for the downlink. Under this approach, a licence is not required for the space stations or space receive stations onboard a satellite. For further information, see the ACMA [business operating procedure](https://www.acma.gov.au/publications/2019-10/report/business-operating-procedure-submission-and-processing-applications-earth-and-earth-receive-apparatus-licences-fixed-earth-stations) on earth, earth receive licensing and area-wide device registrations.

The second option involves a combination of apparatus and class licences. In certain bands specified in the [Radiocommunications (Communication with Space Object) Class Licence 2015](https://www.legislation.gov.au/Series/F2015L01486) (the space object class licence), operators may obtain an apparatus licence for the space stations and space receive stations onboard a satellite with a space licence for the downlink and a space receive licence for the uplink. The space object (that is, the satellite containing the stations) must be an Australian space object listed in the [Radiocommunications (Australian Space Objects) Determination 2014](https://www.legislation.gov.au/Series/F2014L01586) or a space object that is owned, controlled or operated by or for a company/entity listed in the [Radiocommunications (Foreign Space Objects) Determination 2014](https://www.legislation.gov.au/Series/F2014L01584). Earth stations and earth receive stations in the system are then automatically authorised collectively under the space object class licence.

This approach is typically used for satellite systems with numerous or ubiquitous earth stations (transmit or receive). It provides an efficient means of licensing a large number of earth stations and avoids the need to obtain a licence for every earth station in a satellite system. For the purposes of theAct, any implementation of a satellite system (that is, physical satellites in orbit) for which Australia is the responsible administration shall be considered to be an Australian space object. For further information, see the ACMA [business operating procedure](https://www.acma.gov.au/procedures-space-and-space-receive-licensing) on space and space receive licensing.

A key requirement, irrespective of which approach to licensing is used, is that the satellite system must first be filed with the ITU by the ACMA or the equivalent national administration of another ITU member state.

### Telecommunications and broadcasting

For some satellite services, the *Telecommunications Act 1997* may require you to obtain a [carrier licence](https://www.acma.gov.au/apply-telecommunications-carrier-licence) if the service is used for the carriage of telecommunication services. Similarly, if a satellite service is providing a broadcasting service covered by the *Broadcasting Services Act 1992*, a [broadcasting licence](https://www.acma.gov.au/broadcasting-licences) may be required.

### Rockets, launches and space objects

The ACMA’s role in regulating the space sector is limited to use of the radiofrequency spectrum. The Australian Space Agency is generally responsible for the regulation of space activities concerning high-power rockets, space launches, and objects in space and their return to Australia.[[11]](#footnote-12)

Regulation of Australian space activities administered by the Australian Space Agency includes the requirement to obtain authorisation to launch a satellite from Australia or overseas as well as a requirement to register a satellite with the United Nations.[[12]](#footnote-13) Further information on these matters is available on the [website](https://www.industry.gov.au/australian-space-agency/regulating-australian-space-activities) of the Australian Space Agency.

### Critical infrastructure

The Department of Home Affairs is the lead Australian Government agency for critical infrastructure. Critical infrastructure provides services that are essential for everyday life such as energy, food, water, transport, communications, health, and banking and finance.

Space technology involving the commercial provision of space‑related services is a critical infrastructure sector identified under the [*Security of Critical Infrastructure Act 2018*](https://www.legislation.gov.au/Series/C2018A00029). However, the critical infrastructure regime is not something that is directly relevant to the ACMA’s role in filing satellite systems but could result in a future obligation on a satellite operator once the proposed satellite system has been built.

Further information on critical infrastructure is available on the [website](https://www.homeaffairs.gov.au/about-us/our-portfolios/national-security/security-coordination/critical-infrastructure-resilience) of the Department of Home Affairs.

# Application and assessment process

## Who can apply

Applications will be accepted from a satellite operator that is incorporated in Australia under the *Corporations Act 2001*, carries out business in Australia and has management staff in Australia. Alternatively, the satellite operator may be a department of the Commonwealth government or a Commonwealth agency, a part of a state or territory government, a public entity or an educational institution such as an Australian university (see 3.2 Australian jurisdiction).[[13]](#footnote-14)

## When an application is required

The process described in this section applies to satellite operators seeking:

* a new ITU satellite filing
* to modify an existing ITU satellite filing (such as adding or changing a frequency band, or altering orbital parameters)

to transfer use of an existing ITU satellite filing to another entity. This includes a change in ownership of a satellite operator with access to an ITU satellite filing.[[14]](#footnote-15)

Applications to modify a filing will only be accepted from the entity that has been granted use of the filing by the ACMA.

A filing is not normally required for short-term activities such as support for launches or sub-orbital vehicles. However, a radiocommunications licence issued by the ACMA is still required for these activities (as noted previously at section 1.4.2 Radiocommunications licensing).

Satellite operators engaging in recurring short-term activities such as launch support are likely to require a satellite filing for international recognition of frequency use, especially in cases where the communication services of other countries could be impacted. Please contact us to discuss your situation (see section 2.3 Before you apply).

### Application limits

For geostationary orbit satellite networks, the ACMA is unlikely to approve a satellite operator having satellite networks[[15]](#footnote-16) in the coordination stage at more than 4 geostationary orbital locations, unless the operator can demonstrate that the number of locations is integral to their business plan and the proposed networks would have substantial benefits to Australia. For clarity, this rule applies to a count of orbital positions and not the ITU satellite filings. For example, 6 ITU satellite filings at 4 orbital locations is considered acceptable.

The ACMA may relax this limitation in cases where the application of this rule could seriously impact the national interest – for example, to allow the Department of Defence to provide adequate communications infrastructure for Defence requirements.

### Naming conventions for new satellite systems

The application form requires you to identify new satellite systems by a unique name. This will be used in documents and submissions to the ITU concerning the satellite system, including entry in the MIFR. Satellite systems must be unique, unambiguous and comply with the [ITU naming guidelines](https://www.itu.int/en/ITU-R/space/Pages/supportNaming.aspx).

The ACMA prefers names that provide information about the satellite system (such as identifying the satellite operator, type of service, generation of satellite, etc).

### Short-duration missions

Applicants planning short-duration satellite missions for demonstration, proof of concept (pathfinders), research or education purposes, may apply for expedited approval. Any future application from such an operator that is for a commercial or advanced satellite system will be treated as an application from a new satellite operator and considered under our standard approval process for new filings (refer section 2.5.3 Approving officer assessment). Note that where warranted by the specifics of the proposed filing (for example, due to sensitivities or matters of national significance), filings are likely to be brought to the attention of the ACMA [Authority](https://www.acma.gov.au/authority) irrespective of whether the applicant applied for expedited approval as a short-duration mission.

While the expedited approval process is designed to support NGSO satellite systems utilising CubeSats,[[16]](#footnote-17) the requirements for short-duration missions can be used for any short-duration satellite system provided it meets the requirements outlined below.

Applications for short-duration missions still need to address all the assessment criteria and meet all other requirements as outlined in this document.

ITU [Resolution 32](https://www.itu.int/dms_pub/itu-r/oth/0C/0A/R0C0A00000F0015PDFE.pdf) (WRC-19)[[17]](#footnote-18) provides for abridged coordination requirements for certain NGSO satellite networks or satellite systems identified as short-duration missions with cancellation of the filing 3 years after bringing into use without any possibility of extension. All applications for short-duration missions will need to be in accordance with Resolution 32. Applications will need to specifically state that the filing is to be submitted under Resolution 32.

Applicants seeking expedited approval for a short-duration mission must meet the requirements of ITU Resolution 32 (WRC-19). Key requirements are:

* Assignments are in the bands that are not subject to the ITU coordination procedure under Section II of Article 9 of the Radio Regulations.
* Number of satellites does not exceed 10.
* Mission duration will not be longer than 3 years starting from the date of the deployment of the first satellite into the orbit which was notified in the ITU filing. Note the ITU will cancel the filing after 3 years under Resolution 32.

The satellite system has the capability to cease transmitting immediately in order to eliminate harmful interference.

Approved requests for short-duration missions will be submitted to the ITU in accordance with ITU Resolution 32 (WRC-19).

Applicants interested in short-duration missions are encouraged to read the [ITU Small Satellite Handbook](https://www.itu.int/pub/R-HDB-65-2023)[[18]](#footnote-19) (developed to improve knowledge concerning the applicable regulatory procedures for small satellites, including nanosatellites and picosatellites) and other resources provide by the ITU [Space Services Department](https://www.itu.int/en/ITU-R/space/Pages/default.aspx).

## Before you apply

Please read this document in full to understand the satellite filing application process and your obligations.

### Discuss your application with the ACMA

It is envisaged that a potential satellite operator may wish to have initial meetings or correspondence with the ACMA to determine the process or the depth of information required. The ACMA may, at its discretion, engage in such meetings or correspondence, which may be charged at the ACMA’s standard hourly rate.[[19]](#footnote-20)

We encourage you to contact us at satellite.coordination@acma.gov.au to advise us of your intention to apply. We will consider your requirements and provide you with initial advice on starting the process.

### Initiate coordination with other Australian satellite systems

In cases where any part of a satellite system to be included in the application has frequency overlap with an existing or proposed Australian satellite system, an assessment of the potential for interference needs to be made and if necessary, coordination activities with all potentially affected Australian satellite operators needs to commence before the application is lodged with the ACMA (see section 3.5 Coordination with Australian satellite systems).

Applicants who do not have contact details for Australian satellite operators should contact the ACMA. The ACMA will only provide contact details when authorised to do so by the relevant party. Operators are encouraged to provide such authorisation to facilitate discussions between operators.

## Application process

The application process is summarised in the diagram below and leads to publication of the satellite filing by the ITU.

### Complete the application form

Complete [*Form R205: Application for use of access to an International Telecommunication Union (ITU) satellite system*](https://www.acma.gov.au/publications/2019-11/form/form-r205-application-use-access-international-telecommunication-union-itu-satellite-system) and submit with the filing application.

### Address the assessment criteria

Applicants must provide a comprehensive statement against the assessment criteria (see section 3) and satellite filing data.

While there is no specific format for the statement, we recommend a covering letter that summarises the application along with required supporting information (see below).

### Required information

The ACMA requires detailed technical information about the proposed satellite system to allow us to make an informed assessment of the request.

The following list sets out the minimum information to be provided. Depending on the application, we may request additional information:

An overview of the proposed satellite system including its purpose, objective, a description of frequency bands and an overview of future plans.

Advance publication information or coordination request data, in a form that would be ready to submit to the ITU, including relevant beam diagrams (it is the responsibility of the satellite operator to ensure the accuracy and compliance with the Radio Regulations of this data. See section 3.1 Conformity with planning arrangements).

Link budgets for typical configurations of the satellite system.

* The type of service to be provided, for example, feeder links, TV broadcasting, data services, space operation, earth exploration.

Expected date of satellite launch (or lease) and date of service commencement.

* Planned location and a brief description of all gateways.
* If the filing includes amateur satellite bands, a letter of support from the amateur community.
* For a satellite system consisting of a constellation of NGSO satellites:
* details of the expected time required to deploy all of the satellites in the NGSO constellation
* the extent to which it is intended that services will be provided to Australia

the extent to which it is intended that services will be provided to other countries.

### Submit the application

Applications should be submitted to the ACMA via email to: satellite.coordination@acma.gov.au

or by post to:

The Manager

Space Systems Section

Spectrum Planning and Engineering Branch

Communications Infrastructure Division

Australian Communications and Media Authority

PO Box 78

Belconnen ACT 2616

### Pay ACMA cost recovery charges

New satellite operators are charged for an initial assessment and consultation based on 5 hours of work at the hourly rate. Charges are set out in Part 6 of the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245). Additional work is charged on a quarterly basis at the hourly rate. Before a decision on whether to file is made by the approving officer, payment is required for all work undertaken to date.[[20]](#footnote-21)

For existing satellite operators, charges are included in quarterly invoicing.

More information on charges is provided in section 6 Charges.

### Agree to conditions and pay ITU cost recovery charges

Once an application has been assessed by the ACMA, this typically results in identification of a number of conditions to which an applicant is required to agree before the ACMA will submit the filing to the ITU (see section 2.5.4 Conditions of approval).

The applicant will also be asked to pay the ITU cost recovery fee before the filing is submitted to the ITU. See section 6.3 ITU cost recovery.

### ACMA submits the filing to ITU

With conditions of approval agreed and payment of the ITU cost recovery fee made, the ACMA submits the filing to the ITU.

### Obligations once a filing is approved

After a filing is submitted to the ITU, the satellite operator is required to act in accordance with the requirements of this document and in particular the requirements set out in section 4.3 Ongoing obligations of the satellite operator.

## How we assess an application

### Review for completeness

The ACMA will review applications to determine if all required information has been supplied. Incomplete applications will normally be returned to the operator without assessment.

### Preliminary assessment

A preliminary assessment of the completed application is undertaken by ACMA staff, having regard to the assessment criteria set out in section 3. Draft recommendations about whether to accept the application and conditions of approval are prepared for the approving officer. These may be discussed with the applicant.

### Approving officer assessment

The approving officer assesses the application against the assessment criteria and decides whether to accept the application. The approving officer may impose conditions further to those detailed in this document, if required, to ensure that all regulatory requirements are met.

The approving officer is determined based on the type of application and the applicant’s filing history. The table below details the level of approving officer for the various types of missions and applicants.

Approving officer

|  |  |  |
| --- | --- | --- |
| Mission type | Applicant type | Approval |
| All | Holds existing ITU filing/s approved by the ACMATrack record of service provision to Australia | Executive Manager, Spectrum Planning and Engineering Branch |
| Short duration | New applicantsApplicants without a track record of service provision to Australia (a previous short-duration satellite mission not yet brought into use or not serving Australia)  | General Manager, Communications Infrastructure Division |
| All  | Holds existing ITU filing/s approved by the ACMA Satellite system not yet brought into use or not serving Australia | General Manager, Communications Infrastructure Division |
| All except short duration | New applicants Applicants previously only approved for a short-duration satellite missionAll cases not covered by above | Authority |

Where warranted by the specifics of the proposed filing (for example, due to sensitivities or matters of national significance), filings are likely to be brought to the attention of the [Authority](https://www.acma.gov.au/authority) irrespective of the specific approval process otherwise applicable to the type of application. Similarly, applications that would normally be considered by the Executive Manager, Spectrum Planning and Engineering Branch may be elevated to the General Manager, Communications Infrastructure Division if warranted by the circumstances of a particular application, at the discretion of ACMA staff.

### Conditions of approval

In addition to the assessment criteria set out in section 3, an assessment typically results in identification of several conditions to which an applicant is required to agree before the ACMA will submit the filing to the ITU. These conditions are in addition to those contained in the satellite filing [application form](https://www.acma.gov.au/node/1911) and also serve to emphasise the ongoing need for a satellite operator to operate in accordance with ACMA filing procedures.

These conditions normally include that the applicant agrees to, and accepts, the matters set out below:

* Approval to file does not in any way imply that the ACMA will issue radiocommunications licences providing authorisation for the applicant to provide a service within Australia’s territory. Authorisation will be considered under relevant ACMA policy at the time a radiocommunications licence application is received by the ACMA.
* Various radiofrequency bands are under review from time to time and licensing arrangements in these bands will be dependent on the outcome of those processes. The applicant is responsible for conducting their own due diligence with regard to current polices and reviews that might affect future licensing arrangements.
* If the application to file an NGSO satellite constellation is approved, the ACMA and the satellite operator may develop one or more milestones to establish dates for the realisation of the entire constellation. The ACMA recognises that many factors may affect the delivery of a constellation and suggests that these milestones be reviewed periodically by both parties.
* If the implementation of an NGSO satellite constellation differs from the original application in any detail (such as number of satellites, orbital height, inclination), an appropriate modification of the ITU satellite filing may be required to reflect the implemented NGSO satellite constellation. Depending on the circumstances, this may require the satellite operator to submit a new filing request.
* That the ACMA’s ongoing support for a satellite operation is conditional on there being a substantial benefit to Australia.

After an application is approved, the applicant must adhere to the ongoing obligations set out in section 4.3 and all other applicable requirements as set out in this document.

## Assessment timeframes and conflicting applications

For applications that require consideration by the [Authority](https://www.acma.gov.au/authority), we typically expect the assessment process to take up to 6 months from receipt of the complete application.

For other applications, the ACMA will endeavour to complete the assessment process within one month of receiving a complete application.

Other priorities and workload of the ACMA may affect these application assessment timeframes. Complex applications or applications in periods of high activity (for example, when staff are attending international meetings) may take longer and if there are competing tasks, the ACMA would normally prioritise work supporting existing satellite filings over requests for new satellite filings.

Satellite operators are encouraged to allow sufficient time for this work when planning their satellite systems.

The ACMA may not assess an application that could affect the assessment of another application that was submitted to the ACMA at an earlier date. In the unlikely event of multiple complete applications (for satellite systems with the potential to interfere with one another) being submitted on the same date, all satellite systems will be treated as requiring coordination with the other satellite systems. If coordination still cannot be completed between these systems, the ACMA will act as a decision maker to resolve any outstanding issues. Applications submitted on different dates will normally be assessed on their merits in the order of submission of a complete application.

The advance publication information or coordination request data of a satellite system may not be submitted to the ITU until the ACMA has reached a favourable finding regarding the application.

### Pre-application consultation with the ACMA

It is envisaged that a potential satellite operator may wish to have initial meetings or correspondence with the ACMA to determine the process or the depth of information required. The ACMA may, at its discretion, engage in such meetings or correspondence.

### Confidentiality

Information that can be obtained from public sources, such as the ITU website, or by purchasing the [International Frequency Information Circular DVDs](https://www.itu.int/pub/R-SP-LN/e), will not be treated as confidential.

Generally, other information regarding a satellite system provided by a satellite operator will be treated as ‘commercial in confidence’ by the ACMA, unless otherwise agreed between the parties or required to be disclosed. However, satellite operators should be aware that how information is treated by other parties (for example, foreign administrations or foreign satellite operators) is a matter for those parties and outside the ACMA’s control.

Satellite operators are required to provide contact details to the ACMA. These can be provided to foreign administrations and foreign satellite operators to facilitate discussions between administrations and operators.

# Assessment criteria

All applicants must provide a comprehensive statement against the assessment criteria described below. This includes applicants (who have provided this information previously) seeking to modify or transfer use of a filing, or who are subject to a change of ownership, so the ACMA can determine whether an applicant is eligible for the ACMA to act on their behalf.

While there is no specific format for the statement, a covering letter that summarises the application, along with required supporting information submitted with your application form and satellite filing data is recommended.

## Conformity with planning arrangements

The proposed satellite system must conform with:

* the ITU [Radio Regulations](https://www.itu.int/pub/R-REG-RR), any relevant administrative regulations of the ITU and the ITU [Rules of Procedure](https://www.itu.int/pub/R-REG-ROP/en)

all relevant Australian domestic radiocommunications legislative requirements and radiocommunications policies (such as [radiocommunications assignment and licensing instructions](https://www.acma.gov.au/ralis-frequency-coordination), and [spectrum embargoes](https://www.acma.gov.au/spectrum-embargoes)) and legislative instruments (such as the [Australian Radiofrequency Spectrum Plan](https://www.acma.gov.au/australian-radiofrequency-spectrum-plan), [frequency band plans](https://www.acma.gov.au/band-plans-allocate-spectrum) and [class licences](https://www.acma.gov.au/class-licences)) in effect at the time that the system becomes operational.

Additionally, the impact of the proposed satellite system on existing Australian radiocommunications services (space and terrestrial), must be acceptable.

Any inconsistencies between the proposed system and current domestic legislation and policy, and any incompatibility with existing Australian radiocommunications services should be noted, along with proposals to resolve the inconsistency or incompatibility (for example, the satellite operator may plan to provide the ACMA with a sharing scenario between existing systems and its proposed system). Satellite operators are strongly encouraged to take the initiative in this area.

## Australian jurisdiction

The applicant must be a company that is incorporated in Australia under the Corporations Act, carries out business in Australia and has management staff in Australia. Alternatively, the applicant may be a department of the Australian Government or a Commonwealth agency, a part of an Australian state or territory government, a public entity or an educational institution such as an Australian university.[[21]](#footnote-22)

If the satellite system is to provide services to multiple countries (that is, in addition to Australia) or the applicant controls foreign satellite filings, justification should be given as to why Australia is the most appropriate administration to conduct the ITU filing process. This should include details of any existing or planned filing under control of the applicant submitted to another administration, with an explanation of the planned purpose of such filings and their association with the current application.

If the applicant is a company that is a subsidiary of, or controlled by, a foreign entity, information is to be provided showing:

* how the applicant functions independently from the foreign entity
* how access to confidential information about other Australian satellite operators is limited only to the applicant (that is, the information is not accessible by the foreign holding company or controlling foreign entity)
* the corporate structure, including clear identification of the holding company or controlling entity and whether the holding company or controlling entity has access to filings through another administration

mechanisms in place to ensure that confidential information obtained during domestic satellite coordination with existing and planned Australian satellite filings will not be used by the foreign holding company or controlling entity to the detriment of the Australian satellite filings.

## Operational control

The satellite operator must remain able to exercise operational control of the satellite system from within Australia.[[22]](#footnote-23) While this provision does not preclude the use of outsourced telemetry, tracking and control (TT&C), the satellite operator, however, will remain the party responsible for meeting this requirement should such arrangements be made.

Brief details of planned TT&C operations need to be provided with the application.

Space station/s must be fitted with devices to ensure immediate cessation of their radio emissions by telecommand, whenever such cessation is required under the provisions of the Radio Regulations or Australian regulatory requirements.

## Technical and financial credentials

An applicant must demonstrate that it has the technical and financial credentials required for the coordination of the satellite system and design of the physical satellite.[[23]](#footnote-24) This applies not only to new applicants but to all types of applicants (including those seeking a modification, transfer or change of ownership).

Details of expected Australian coordination with foreign satellite systems, as well as plans to resolve any coordination issues that arise, need to be provided in the application.

A coordination strategy and evidence of sufficient technical skills to be able to perform coordination should be provided in the application. This information must address:

* the coordination required to be able to successfully notify the applicant’s satellite system to the ITU

the coordination that arises from the ITU’s publication of details of foreign satellite systems published after the applicant’s satellite system is published.

Applicants need to provide a business plan or other evidence demonstrating a current ability to fund, at a minimum, the coordination of the satellite system and design of the physical satellite.

## Australian benefit

The services that would be provided by the proposed satellite system, should it be brought into use, must:

provide substantial benefit to the Australian public that:

is limited to that derived from the use of the radiofrequency spectrum

aligns with the object of the Radiocommunications Act; and

include Australia in the service area of the proposed satellite system. Information about the proportion of service capacity provided to Australia compared to the proportion provided abroad (if applicable) needs to be included along with a justification for such a service area.

Applicants must provide detailed claims against this assessment criterion. Examples of services that might be considered to provide substantial Australian benefit include:

* the provision of a majority of a satellite service’s capacity to Australians, particularly if this meets the needs of consumers that are under-served or not served
* a service that assists the Australian Government (or government agency) in performing its activities[[24]](#footnote-25)

radiocommunications links to be used by recognised research bodies for the purposes of scientific research or environmental monitoring, or by Australian industries providing commercial services either exclusively into Australia or into other countries in addition to Australia.

### Non-qualifying benefits

The ACMA considers that locating earth station gateways in Australia for satellite control and data distribution is something that would happen in the normal course of business rather than providing a substantial benefit to Australia.

The ACMA also considers that the benefit of possible future investment in Australia is challenging to demonstrate as it relies on an uncertain future activity that would occur after the satellite is successfully brought into operation.

### Consideration of past performance

In assessing the benefit to Australia, the ACMA will consider the past performance of applicants who hold a satellite filing previously filed by the ACMA and whether the applicant has met its ongoing obligations for previous satellite filings. As part of this assessment, the ACMA may consider an operator’s performance compared with the schedule of milestones as outlined in this document.

As part of considering past performance, previous business activity (including investments) associated with existing filings may be used as evidence to support claims that existing filings are being used in a way that brings substantial benefit to Australia (as derived from use of the radiofrequency spectrum).

## Coordination with Australian satellite systems

Under Article 44 (Use of the Radio-Frequency Spectrum and of the Geostationary-Satellite and Other Satellite Orbits) of the [ITU Constitution](https://www.itu.int/hub/publication/s-conf-plen-2022/), in acting as the Australian administration, the ACMA must bear in mind that radio frequencies, and any associated orbits, are limited natural resources that must be used rationally, equitably, efficiently and economically. The ACMA considers that Australian satellite systems that are technically incompatible with each other do not fulfil this requirement and, when acting as the filing administration for both systems, the ACMA will require any conflict to be resolved.

While the Radio Regulations set out processes for coordination of satellite systems of different administrations that could potentially interfere with each other, they do not contain processes regarding the potential for interference between satellite systems of the same administration. Such intra-administration coordination is left to the relevant administration.

The coordination process uses the date of receipt of a complete application to the ACMA as a reference point to determine which satellite systems are affected by filing applications received at a later date.

The ACMA expects satellite operators involved in coordination activities to show goodwill in overcoming any difficulties in achieving coordination and to act rationally by considering only relevant technical matters.

### When is coordination required between Australian satellite operators

The applicant is required to initiate coordination with a satellite operator of a previously submitted Australian satellite system if there is frequency overlap. This can be further refined by using the thresholds/conditions listed in the Radio Regulations (in this process, the new satellite filing should be considered as a filing from another administration). Relevant requirements are generally contained in ITU RR Appendix 5. Conditions of Appendices 30, 30A and 30B of the Radio Regulations are applicable for coordination in planned frequency bands. Generally, for any new NGSO satellite system, coordination needs to be initiated with an existing Australian satellite system when there is frequency overlap.[[25]](#footnote-26)

To assist an applicant, the ACMA may establish whether there is a potential for interference with a previously submitted satellite system. This may be based on 2 factors: frequency overlap and, where applicable, the orbital separation of the satellite networks. However, it is the applicant’s responsibility to provide its own assessment of potential domestic coordination requirements, based on information published by the ITU on Australian satellite filings. ITU software and commercially available coordination software can assist in establishing coordination requirements.

If a filing is not yet published by the ITU, the ACMA will establish, using thresholds mentioned above, if the applicant is required to coordinate with the operator of an Australian satellite system for which an application was accepted earlier by the ACMA and is under consideration, and not yet published by the ITU.

To show that coordination between Australian satellite operators has been considered, the applicant must demonstrate that:

there is no interference risk, or

coordination has been initiated with potentially affected operators by providing acknowledgement from those operators that development of a coordination agreement has commenced with the intention to complete the agreement in the future. While the specific timing for completion of an agreement is a matter for the parties involved, we consider it is useful to link to certain milestones such as the launch of the satellite system, commencement of operation, requests for licensing or commencement of bringing into use activities. Our general disposition is to not support such activities if an agreement is outstanding.

If the incompatibility between the proposed and an existing satellite system is considered by the ACMA as particularly severe, the applicant must demonstrate that a coordination agreement has already been reached.

Satellite operators are expected to provide a timely response to requests for coordination of new filings by advising within 2 weeks of the initial request whether they are likely (or not) to have objections to the filing being submitted to the ITU. Any objections need to demonstrate a severe incompatibility between the satellite system. The ACMA expects that if the basis for any objection is not clear, supporting information providing a detailed rationale for any objection should be provided in a reasonable timeframe. In the absence of such a response, the ACMA may submit the filing to the ITU subject to its own assessment of compatibility with existing Australian satellite systems.

Generally, the ACMA will file new GSO satellite networks for existing satellite operators to the ITU if orbital separation with other Australian GSO satellite networks is larger than a minimum orbital arc listed in the Radio Regulations as a relevant coordination threshold. This will be done on the expectation that technical compatibility can be easily achieved through operator-level coordination.

### Failure to coordinate between Australian satellite operators

Coordination between Australia satellite systems will need to be completed before bringing the frequency assignments of the satellite filing into use. The ACMA will not advise the ITU that a satellite system has been brought into use until coordination agreements are reached and a copy of each agreement is provided to the ACMA.

The ACMA’s policy is to not permit frequency assignments of a satellite system to be brought into use where domestic coordination with previously filed Australian satellite systems is outstanding. This policy only applies to the relevant frequency assignments for which coordination is outstanding, not the entire satellite system.

Whether an agreement is in place may be a relevant factor for the ACMA to consider when assessing a future licence application. The weighting given to the absence of a coordination agreement would depend on the specifics of the licence application.

### Resolving disagreements between Australian satellite operators

All Australian satellite operators have an obligation to use their best endeavours to reach coordination agreements in good faith, in a timely fashion. The ACMA will take account of the approach taken by parties in meeting this obligation if there is a dispute.

If there is a dispute, the ACMA may act as a decision maker. If a satellite operator can demonstrate that continued efforts towards domestic frequency coordination are being prevented by circumstances outside of its control, including unreasonable objections of existing operators, it may request that the ACMA act as a decision maker. If so, the ACMA may request information on the issue from all relevant parties. The ACMA may then investigate the issue and reach a decision as it sees fit.

In reaching its decision, the ACMA may consider issues such as technical aspects (orbital separation or other thresholds/conditions of the Radio Regulations), dates of receipt, coordination history, compliance with the procedures of this document, maturity of satellite system(s), and other matters that it may consider to be in the public interest. The ACMA may revoke such a decision in the case of a subsequent signed agreement between both parties.

## Requirements for ‘planned band’ applications

The term ‘planned bands’ means the specific frequency bands detailed in Appendices 30 (BSS downlink),[[26]](#footnote-27) 30A (BSS uplink) and 30B (FSS services)[[27]](#footnote-28) of the Radio Regulations. These bands have been comprehensively planned, applying the principle of equitable use – there are a small number of plan entries for every country. In this document, the term ‘planned bands’ is inclusive of the plans detailed within these appendices and any potential modifications to these plans.

Satellite networks subject to Appendices 30, 30A and 30B are subject to significantly different procedures from other satellite networks.

The ACMA may consider applications for satellite networks that are within the planned bands, on merit.

Such applications need not be strictly limited to implementation of the plan assignments contained in the Radio Regulations; applications for additional use to the plan may also be considered. In such cases, however, further information should be provided in the application (in addition to the information against the other assessment criteria) detailing the compatibility between the proposed assignment and the Australian plan assignments.

## Requirements for amateur satellite bands

Applicants seeking frequency assignments in the amateur bands are required to provide a letter of support from the Australian amateur radio community.

All amateur band assignments need to be coordinated through the [International Amateur Radio Union](https://www.iaru.org/reference/satellites/).

Communication with an amateur satellite is authorised under relevant amateur licences provided operation is in accordance with the [Radiocommunications Licence Conditions (Amateur Licence) Determination 2015](https://www.legislation.gov.au/Series/F2015L01113). The satellite operator needs to demonstrate that the satellite communications will comply with the amateur licence conditions.

# Procedures for approved applicants

## Background

The role of the ACMA is to facilitate access to spectrum and orbital resources in accordance with Australia’s international and domestic obligations. It is not the ACMA’s role to provide advice on physical satellite or satellite system design. Decisions of a technical nature in the design and coordination of the satellite system have the potential to affect the viability of a project, and these decisions rest with the satellite operator.

The ACMA may directly participate in coordination activities only if other avenues have been exhausted and not performing this work would be in derogation of Australia’s international obligations.[[28]](#footnote-29)

Member states of the ITU (such as Australia) are bound by the Radio Regulations, which outline the conditions required for international notification of a radiocommunications service, typically concerning the potential for harmful interference to any service of another country. The Radio Regulations contain the requirements and process to obtain agreement with other administrations before the notification of a satellite system.

The ITU maintains a list of satellite networks and earth stations to help administrations comply with some forms of coordination and reach coordination agreements required of a satellite system. Coordination can only be requested or obtained at an administration level. In practice, coordination is often undertaken at an operator-to-operator level. For this reason, all Australian satellite operators must make substantive coordination efforts, so orbital and spectrum resources are not denied to other countries.

## Harmful interference

The satellite operator must take all reasonable steps to ensure harmful interference is not caused by the operation of its satellite system.

If the satellite operator receives a complaint that transmissions from its satellite system have caused, are causing, or are likely to cause harmful interference, the satellite operator must provide the ACMA with:

* a copy of the complaint (as soon as possible)

an engineering assessment of the nature and extent of the harmful interference alleged in the complaint.

Similarly, if the ACMA receives a complaint of harmful interference, the ACMA will inform the relevant satellite operator as soon as practicable.

Should the ACMA agree that there is a case of harmful interference that needs to be remedied, we may issue an instruction to the relevant satellite operator. Such an instruction may require immediate removal of the cause of the harmful interference, as deemed appropriate by the ACMA.

This may be achieved through means such as:

* stopping transmission, if necessary
* varying space or earth station power output
* varying occupied bandwidth
* varying assigned frequency
* varying station keeping or position

providing information to the ACMA, the ITU or other administrations to resolve the issue.

Any instruction issued by the ACMA in relation to a claim of harmful interference will typically be designed in such a way to cause the minimum amount of disruption to the satellite operator while adequately addressing the issue of harmful interference.

If necessary, the ACMA may proceed to refer the matter to a conciliator, under Part 4.3 of the Radiocommunications Act. Following the conciliation process, the ACMA may issue a direction under section 212 of Part 4.3 of the Radiocommunications Act.

## Ongoing obligations of the satellite operator

The satellite operator must, at all times, ensure the following conditions are met:

* In the case of commercial satellite operators, the satellite operator must remain a company that is incorporated in Australia (under the Corporations Act), carry on business in Australia and have management staff in Australia.
* The satellite operator must maintain the ability to exercise operational control from within Australia (this provision does not preclude the use of outsourced TT&C. The satellite operator, however, is still the party responsible for fulfilling this provision should such arrangements be made).
* The satellite operator must comply with the Radio Regulations, any relevant administrative regulations of the ITU and the ITU Rules of Procedure, and frequency coordination agreements endorsed by the ACMA and relevant foreign administrations.
* The satellite system must be operated in accordance with applicable Australian legislation, including the:
* *Radiocommunications Act 1992*
* *Telecommunications Act 1997*
* *Broadcasting Services Act 1992*
* *Space (Launches and Returns) Act 2018*.
* The satellite operator should respect applicable legislation of a country where services are being delivered to or are originating from.
* Any statement made to the ACMA, in relation to the satellite system, must be true and correct at the time it is made, and corrected as soon as possible if necessary.
* Permission must be obtained from the ACMA before bringing the satellite into use.
* The satellite operator is responsible for all ITU fees and ACMA cost recovery charges for work performed on behalf of the operator.[[29]](#footnote-30)
* The satellite operator must promptly communicate to the ACMA any significant changes to the planned radiocommunications services from those presented in the original application to the ACMA. Significant detrimental changes to the Australian benefit from the proposed radiocommunications services may result in the ACMA re-assessing whether to continue to support the satellite system.
* If the satellite operator is a subsidiary of, or controlled by, a foreign entity, it must ensure that confidential satellite information about another Australian satellite operator is restricted to the Australian entity operating the satellite and not shared with the associated foreign entity (including staff of the foreign entity).

The satellite operator must promptly communicate to the ACMA when the person or organisation that holds a business name changes.

## International Frequency Information Circular (IFIC) process

The Radio Regulations detail processes for the international coordination and notification of satellite systems. In accordance with these regulations, the ITU publishes details of new and modified satellite systems in its fortnightly International Frequency Information Circular (IFIC). Each IFIC contains a number of individual publications of different types, as set out in the Radio Regulations (and other ITU documents). The ACMA is obliged to provide comments on compatibility with satellite systems mentioned in many of these publications; such comments include providing or denying agreement to a foreign satellite system in accordance with the provisions of the Radio Regulations.

### Foreign satellite systems published in an IFIC: potentially affected Australian satellite systems

Satellite operators must perform their own calculations to determine the likelihood of interference and must arrange access to the information required to perform such assessments.

The satellite operator must provide written comments on each IFIC to the ACMA (except in cases described in section 4.4.2 below), detailing what coordination the ACMA should initiate. These comments must be received by the ACMA at least 5 weeks before the comments due date. These comments must clearly state:

* the foreign administration, foreign satellite systems, Australian satellite system(s), frequency bands, and relevant provisions of the Radio Regulations for which coordination is requested, supported by:
* justification for the request to engage in coordination, in accordance with the provisions of the Radio Regulations (in particular, ITU RR 9.52)
* where possible, a proposed method for resolving the coordination issue

a list of any coordination that, while flagged by the ITU, does not need to be performed, or has already been completed.

The decision to initiate coordination must be based on technical calculations demonstrating a potential for interference. These calculations must be made available to the ACMA upon request. The trigger value of 6% for DT/T is a good indicator of the potential for interference in many cases, but a more thorough analysis (for example C/I calculations) can lead to a reduced amount of necessary coordination. The DT/T trigger threshold can be considered a necessary condition for the need for coordination but should not be considered a sufficient condition to initiate coordination. Unnecessary coordination can place a burden on the ITU, both administrations, and both satellite operators. It also makes the process of achieving all required coordination agreements more complicated.

It should be noted that in many cases the ITU will apply a coordination arc as a tool for assessing the potential for interference. It is strongly suggested that in these cases, satellite operators rely on their own calculations rather than the coordination arc approach as the coordination arc as a tool may not identify all cases of potential interference. The coordination arc approach may also highlight cases where DT/T is less than 6% – in this case, the satellite operator is recommended to state that it does not want coordination initiated.

Requests by satellite operators to initiate coordination for satellite networks that are outside the coordination arc will only be submitted by the ACMA to the ITU if accompanied by a summary of DT/T calculations showing an increase to at least 6%.

In certain cases, such as an Australian satellite operator’s satellite system using non-directional terminals or an NGSO constellation, frequency overlap with a foreign-published satellite system in the IFIC may be sufficient to initiate coordination.

Satellite operators are encouraged to perform sufficient calculations during this mandatory step so that the number of requests to enter coordination are minimised (while still providing sufficient protection to their satellite systems).

The ACMA will, in accordance with its domestic and international obligations, perform checks on all comments received from satellite operators in response to an IFIC publication for a foreign satellite system. If any inconsistencies are found in the comments, the ACMA may contact the relevant satellite operator and attempt to resolve any inconsistency identified. In the absence of advice from the satellite operator, regarding potentially affected Australian satellite systems for which it is responsible, at least 5 weeks before the comments due date, the ACMA will retain its discretion in responding to the foreign administration, but will generally do the following:

* For comments made under provisions of the Radio Regulations that specify a mandatory response, the ACMA will provide agreement to the foreign administration whose satellite system(s) have been identified as potentially affecting the Australian-filed satellite system that falls under the responsibility of the non-responding operator.

For comments made under provisions of the Radio Regulations that do not specify a mandatory response, the ACMA will provide no response to the foreign administration whose satellite system(s) have been identified as potentially affecting the Australian-filed satellite system that falls under the responsibility of the non-responding operator.

### IFIC responses to foreign administrations

The ACMA collates the satellite operators’ responses, and, subject to the procedures given in the previous section, sends these responses to the ITU in accordance with its current procedures. The satellite operator will receive a copy of the collated responses.

Operators of satellite systems that are not subject to the coordination procedure under Section II of Article 9 of the Radio Regulations may decide not to provide comments to the fortnightly IFIC publications. It is considered a valid coordination strategy to not initiate objections to a new foreign filing in these bands as coexistence is much more likely when compared with bands that are subject to the more complex ITU coordination process. By choosing to not engage in coordination, the operator accepts the risk of interference from newly published foreign satellite systems in the IFIC and will not cause interference to these systems.

However, a satellite operator is required to respond to comments received from foreign administrations responding to the publication of its own satellite system.

### Australian satellite systems published in an IFIC

Foreign administrations will comment on Australian satellite systems published in ‘special sections’ of an IFIC. The ACMA will forward copies of these comments to the relevant satellite operator.

The satellite operator is responsible for reviewing the comments and drafting a reply so that the ACMA may respond to the foreign administration if required.

### Requests from other administrations

As part of the international coordination process, Australia is often required to respond to requests for information. These requests may come directly from a foreign administration (or satellite operator) or from the ITU. For example, under ITU RR 9.60, an administration may ‘request the assistance of the Bureau’ (the Radiocommunications Bureau (BR), a section of the ITU). Australia is usually obliged to respond to these requests in a substantive and timely manner.

Satellite operators are required to assist the ACMA to fulfil this obligation by providing thorough, substantive responses in a timely manner. Failure to respond in a timely manner or failure to provide sufficient technical detail may result in the ACMA providing a response on behalf of a satellite operator, as the ACMA sees fit at the time (which may not be in the best interests of the satellite operator).

Satellite operators are also required to avoid, as much as possible, the need for other administrations to request the assistance of the BR.

Multiple instances of failing to respond to requests under provision 9.60, or multiple cases of requests under provision 9.60 that are considered to have been avoidable, may result in the ACMA taking action as described in section 4.9 Compliance with the procedures in this document.

### Additional services that the satellite operator can request from the ACMA

The satellite operator may request the ACMA to assist with issues relating to its satellite system, for example, assessing the potential for interference in a given scenario. The ACMA has the sole discretion in determining whether to accept such a request.

### IFIC cost recovery charges

The ACMA recovers its costs for work undertaken on the IFIC process, handling of the correspondence to/from the ITU BR and foreign administrations, and for providing support to the satellite operator. The hourly rate for this work is in the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245)and its revisions.

The current IFIC cost recovery is based on 2 components: IFIC processing costs and IFIC correspondence cost. IFIC processing costs are apportioned based on benchmarked averages of number of foreign satellite systems (subject to coordination) affecting a particular operator. The IFIC correspondence cost is based on the amount of correspondence sent for each operator.

### IFIC and short-duration missions

For short-duration missions submitted in accordance with ITU Resolution 32 (WRC‑19)[[30]](#footnote-31), the satellite operator may choose not to provide written comments on coordination concerning new satellite systems filed by foreign administrations. However, a satellite operator will be required to respond to the comments received from foreign administrations to the publication of its own satellite system.

## Milestones for management of satellite coordination

All member states of the ITU are bound by the Constitution and Convention of the ITU. The Constitution of the ITU, Article 44, paragraph 2 states that member states bear in mind that:

… radio frequencies and any associated orbits, including the geostationary-satellite orbit, are limited natural resources and that they must be used rationally, efficiently and economically, in conformity with the provisions of the Radio Regulations, so that countries or groups of countries may have equitable access to those orbits and frequencies ...

Further, paragraph 1 states:

Member states shall endeavour to limit the number of frequencies and the spectrum used to the minimum essential to provide in a satisfactory manner the necessary services ...

The ACMA also notes the problem associated with satellite systems that never result in the provision of actual services – the so called ‘paper satellite’ problem.

To assist satellite operators to participate in the satellite coordination process in a way that supports Australia’s obligations under the ITU Constitution and Convention, an example schedule of milestones is at Annex 1. The milestones have been designed to allow for uncertainties in international satellite coordination, providing a way to assess progress towards providing actual services by comparing progress against the milestones.

Participating in the satellite coordination requires satellite operators to maintain information regarding the potential for harmful interference and future coordination strategy. At a minimum, this information should contain a:

* coordination summary:
* administrations
* affected satellite systems
* provisions of the Radio Regulations under which coordination is required
* coordination strategy:
* how coordination will be prioritised
* any administration or operator meetings planned
* summary of coordination activities:
* must show substantive efforts for coordination (for example, meetings, exchanges of correspondence offering proposed solutions.)
* efforts must be proactive, substantive and ongoing or completed
* summary of coordination resulting from coordination request (IFIC) responses made to other administrations:
* progress on this coordination
* must show substantive efforts for coordination (for example, meetings, exchanges of correspondence offering proposed solutions.)

efforts must be proactive, substantive and ongoing or completed.

## Notification for recording in the MIFR

Before the regulatory deadline of the ITU (7 years from receipt of the advance publication information or coordination request data in most cases), the ITU requires that:

* Resolution 49 (due diligence) data be submitted to the ITU
* the satellite system be ‘brought into use’, with confirmation of this submitted to the ITU

initial notification data be submitted to the ITU (noting that the process to successfully notify a satellite system is long).

Failure to meet any of these 3 key requirements within the timeframe will result in the ITU suppressing the satellite filing. This is outside of the control of the ACMA.

### Resolution 49 data

The Resolution 49 data is required to be submitted to the ACMA well before the ITU requirement for this data (the regulatory period of the satellite filing). Resolution 49 requires specific information relating to contractual arrangements regarding spacecraft manufacture and launch. The purpose of the Resolution 49 data is to provide administrative due diligence for addressing the problem of reservation of orbit and spectrum capacity without actual use. This purpose is best served by administrations both vetting the contents of the data and insisting on its early submission to the ITU.

The ACMA requires written confirmation of signing of the launch and manufacture contracts (rather than viewing the contracts).[[31]](#footnote-32) Written confirmation of these contracts must contain the information required for Resolution 49 and be provided by both the satellite operator and the launch provider or manufacturer. In the case of a service to be provided by a satellite already in operation at another location, a notice of intent to relocate an existing satellite must be given, in addition to Resolution 49 data.

### Confirmation of bringing into use

Confirmation of bringing into use must be submitted before the end of the regulatory period (7 years from receipt of the advance publication information or coordination request data submission in most cases). This information should be submitted to the ACMA in advance of this deadline, along with a description of what parts of the satellite system have been brought into use.

### Initial notification data

Notification data should be submitted to the ACMA in a manner which is suitable for submission to the ITU, in advance of the regulatory dates. The ACMA will perform some checks on this data, but it is the responsibility of the satellite operator to ensure the accuracy of this data. The satellite operator should provide the ACMA with the information verifying the completion of coordination with the affected foreign administrations, by providing references or copies of the relevant correspondence.

The ACMA will submit the notification data to the ITU, or further liaise with the satellite operator (if required), to enable the data to be submitted.

### Suspension of services

To allow the ACMA to comply with provisions of the Radio Regulations, satellite operators are required to inform the ACMA of the suspension of services and their frequency assignments for which notification data has been submitted to the ITU.

### Application of provisions 11.32A and 11.33

Examination is required of frequency assignments in notices with respect to the probability of harmful interference. ITU RR 11.32A covers ‘those cases for which the notifying administration states that the procedure for coordination … could not be successfully completed.’ ITU RR 11.33 is similar. Since the ITU specifies that these provisions are for instances of required coordination agreement that could not be obtained (for example, the operator, despite its best efforts, could not complete all required coordination before the expiry date of the satellite filing), the ACMA may only request that the ITU apply these provisions if a satellite operator can demonstrate substantive efforts were made towards obtaining required coordination.

Satellite operators are encouraged to liaise with the ACMA when experiencing trouble coordinating with other satellite operators. If needed, the ACMA (acting as the Australian administration) can represent the satellite operator, particularly in administration-to-administration correspondence. If needed, the ACMA may request the assistance of the BR on behalf of a satellite operator (provided that the ACMA is convinced that sufficient attempts to resolve the issue have been made).

### Permission to bring into use

The satellite operator must ensure that permission to bring into use has been granted by the ACMA before the frequency assignments of the satellite system being brought into use (including use for testing purposes only). Such permission may be requested for specific parts of the satellite system. For example, permission may be sought for a subset of frequencies or for a specific beam. The ACMA may not grant permission unless permission is specifically requested, and the operation of the satellite system is covered by relevant radiocommunications licences.

This provision will not prevent the use of parts of the satellite system in an emergency. The ACMA must be informed of emergency use as soon as practicable, with details of the nature of the emergency.

### Other relevant provisions of the Radio Regulations

There are other provisions of the Radio Regulations not referred to above that are applicable to notification of a satellite system (for example, ITU RR 11.41, Resolution 35 and Resolution 40), and non-compliance with some of these provisions may lead to the ITU suppressing the satellite filing.

As listed in section 4.3 Ongoing obligations of the satellite operator*,* the satellite operator is responsible for ensuring compliance with the Radio Regulations, any relevant administrative regulations of the ITU and the ITU Rules of Procedure.

## Satellite operator may conduct coordination directly

To satisfy ITU coordination requirements, an administration responsible for a satellite system must achieve coordination with other administrations. The ACMA, however, believes that satellite operators are best placed to perform the technical coordination of frequency assignments for their satellite systems.

The ACMA authorises and encourages satellite operators to engage in operator-to-operator coordination on the condition that:

* the coordination is performed on a purely technical basis

the satellite operator does not engage in coordination discussions for Australian satellite systems or radiocommunication services for which they do not have access.

The ACMA may attend a coordination meeting:

* at the request of the satellite operator
* at the request of a satellite operator or an administration of another country

because it believes attendance to be in Australia’s interests.

The ACMA has discretion to decide whether to attend. If the ACMA decides to attend a meeting following a request to do so, it will be at the expense of the satellite operator.

Before attending a bilateral administration-level coordination meeting, the ACMA will determine which Australian satellite operators will have an opportunity to participate in the meeting and to conduct operator-level coordination during the meeting.

## Efforts to achieve coordination agreements

A satellite operator is responsible for effecting coordination between its satellite systems and those of other administrations. The ACMA supports coordination work to occur at an operator-to-operator level.[[32]](#footnote-33) The satellite operator is best placed to determine any compromises to the satellite system that can be made. A coordination agreement should be formalised by the satellite operator and the other party. The agreement then needs to be forwarded to the ACMA.

Any agreement at an operator level must be endorsed by the ACMA (acting as the Australian administration) and by the foreign administration. Before endorsing the agreement, the ACMA will check that the terms of the agreement are limited to the satellite system of the satellite operator, and are in accordance with Australia’s obligations such as the ITU rules and Australian law. The ACMA will then send a copy of the endorsed agreement to the foreign administration requesting endorsement (and send a notice to the ITU that agreement has been reached, if required by the satellite operator).

An administration or satellite operator is obliged to pursue coordination required for their satellite systems (often incorrectly referred to as ‘ahead in the queue’) as well as any relevant coordination required for foreign satellite systems (often incorrectly referred to as ‘behind in the queue’).[[33]](#footnote-34) This requirement is because bilateral coordination only works if parties are prepared to make efforts in both scenarios.

Once coordination has been initiated in response to an IFIC publication, a satellite operator must make reasonable efforts towards completing this coordination in a timely manner. The ACMA, acting as the Australian administration, will not condone efforts to deliberately ignore or delay coordination work solely because it is inconvenient to perform this work.

However, the way coordination will be performed (for example, through operator level meetings, through correspondence) is for the satellite operator to determine.

## Compliance with the procedures

The preference of the ACMA is to resolve issues in an informal way with the satellite operator. The ACMA has a history of resolving most issues in this manner. However, the ACMA has a range of other approaches available to it, as outlined in this section.

The ACMA performing its role as the responsible administration and supporting a satellite system is contingent on satellite operators conforming to the procedures set out in this document.

If an operator does not conform to the procedures, then the ACMA will take action to remedy the defect using, as appropriate, whatever powers are available to it.

The ACMA may, for example, stop performing satellite coordination work on behalf of a satellite operator, if it is reasonable to do so. However, the ACMA is unlikely to stop performing its role without first having provided the satellite operator with at least one written warning.

A number of matters are considered sufficiently critical to warrant possible further action to ensure compliance. For these matters, it may not be sufficient for the ACMA to simply stop providing satellite coordination services, and still satisfy its obligations. These are ‘assessment criteria’ (see section 3), ‘ongoing obligations’ (see section 4.3), ‘coordination’ (see section 4.8) and ‘harmful interference’ (see section 4.2).

In the event of non-compliance with the procedures, the ACMA may issue an instruction to the satellite operator, giving specific reasons as to why it believes that there is non-compliance. The satellite operator must promptly reply to such an instruction, addressing each issue raised by the ACMA and detailing how it will remedy any non-compliance.

Should the satellite operator not adequately address and remedy the non-compliance, the ACMA may decide to cancel a satellite operator’s access to a satellite filing. It may then instruct the ITU to suppress (permanently delete) the satellite filing, or re-issue access to the filings for the satellite system to another satellite operator if it decides that doing so is in the best interests of Australia. In the case of non-compliance with the procedures, the ACMA has sole discretion in determining whether access to a satellite filing should be re-issued, or whether the ACMA will request that the ITU suppress the satellite filing.

In the case of non-compliance with the procedures, cost recovery charges may apply for the following items:

* assessment of non-compliance
* assessment of whether to re-issue access to the filings for the satellite system to another satellite operator (if applicable)

any necessary communication with the ITU or foreign administrations regarding the satellite system (if the filing is suppressed).

As appropriate, the ACMA may also take account of the approach by a satellite operator towards its filing-related obligations when considering other actions.

## ACMA support conditional on a substantial benefit to Australia

The ACMA is required to perform a number of activities to maintain the satellite filing and to assist the satellite operator in using the satellite filing. These activities include:

* preparation of IFIC responses to other administrations and the BR
* communicating with the BR and other administrations on behalf of the satellite operator
* submission of the satellite filing to the BR

endorsement of operator-level frequency agreements.

The ACMA may also choose to represent the satellite operator at the ITU Radio Regulations Board or take positions in supporting an operator in international meetings (for example, ITU forums such as study groups, World Radio Conferences, Plenipotentiary Conferences, and regional forums such as Asia–Pacific Telecommunity) when requested by the satellite operator.

When deciding whether to represent the satellite operator upon such a request or fulfilling other complex requests, the ACMA may ask the operator to provide evidence that such action will be of benefit to Australia without being detrimental to the interests of other Australian satellite operators.

In assessing such requests, the ACMA will consider the satellite operator’s past performance regarding obligations listed in the filing procedures, including the satellite operator’s adherence to the milestone guidelines, responsiveness to foreign and domestic satellite coordination requests, or progression of the filing to the notification and bringing into use stages.

# Change of access to an ITU satellite filing

The provisions of this part of the procedures apply to the information submitted to the ITU (the ITU satellite filing) and not to physical satellites (and the entities that own the physical satellites which may be tradeable assets). The ACMA procedures set out here are not intended to impact on the transfer of physical satellites as tradeable assets.

## Transfer of access to an ITU satellite filing

If a satellite operator wishes to transfer access to a satellite filing to another satellite operator, the following must be provided to the ACMA:

the written agreement of both parties

an application form that addresses all assessment criteria with regard to the proposed recipient.

In addition, the recipient must follow all other relevant procedures as set out in this document. Cost recovery charges will apply for assessment of such an application.

## Change in ownership

When the entity that has access to the filing has a change in ownership (including changes to its holding company if the satellite operator is a subsidiary of, or controlled by, another entity), the satellite operator must apply to the ACMA to re-assess whether it is in Australia’s interest to support the ownership change that affects the right of access to the filing. The application must address all assessment criteria. Cost recovery charges will apply for assessment of the application.

When changes are related to corporate restructuring, the ACMA may waive the need for a full application if it can be demonstrated that the changes do not substantially alter the ownership relationship.

Operators should contact the ACMA in advance of a proposed ownership change to determine the potential impact on access to satellite filings.

## Satellite filings relinquished by operator request

Satellite operators are encouraged to inform the ACMA as soon as any satellite filing becomes unnecessary to their requirements or if it becomes obvious that a satellite system is highly unlikely to be successfully coordinated or brought into use.

# Charges

## Assessment of satellite filing applications

The ACMA charges an amount outlined in the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245), Schedule 1, Part 6 for assessment of a satellite filing application.

For existing satellite operators, these charges are included in ACMA quarterly invoicing for cost recovery work performed by the ACMA (see below). Charges are for the quarter in which the work occurred and, as such, if work spans multiple quarters, charges will be invoiced in the quarter in which the work is undertaken (and not at the completion of the assessment).

## Cost recovery for work performed by the ACMA

The ACMA recovers its costs for work undertaken on the satellite operator’s behalf on an hourly basis. The amount charged per hour is set out in the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245)and its revisions. The ACMA will raise invoices every quarter. Payment terms will be the ACMA’s standard payment terms set out in the invoice. Failure to comply with the payment terms of the ACMA for 2 consecutive quarters (or for 3 non-consecutive quarters) may result in the ACMA ceasing to provide its services or taking other action.

## ITU cost recovery

Before submitting data to the ITU that will attract an ITU [cost recovery](https://www.itu.int/ITU-R/go/space-cost-recovery/en) fee in accordance with ITU Council Decision 482 (as modified from time to time), the ACMA will raise an invoice for an estimate of the ITU cost recovery fees in Australian dollars. This estimate will include an amount to cover currency fluctuations. This money will be held in trust by the ACMA until the payment is made.[[34]](#footnote-35) After the payment is made, the satellite operator will be credited the difference between the actual fee and the amount held in trust if it is greater and charged for the difference if it is less.

# Annex 1: Best-practice milestones

Milestones

|  |  |
| --- | --- |
| Milestone | Completion date[[35]](#footnote-36) |
| Initial contact with administrations for which coordination is required.Analysis of the potential for harmful interference and future coordination strategy. | 1 year |
| Analysis of the potential for harmful interference and future coordination strategy. | 2 years |
| Analysis of the potential for harmful interference and future coordination strategy. | 3 years |
| Launch contract signing, in the case of a service to be provided by a newly launched satellite.Satellite contract signing, in the case of a service to be provided by a newly launched satellite.Notice of intent to relocate an existing satellite, in the case of a service to be provided by a satellite already in operation at another location.Resolution 49 data submitted to ITU.Analysis of the potential for harmful interference and future coordination strategy. | 4 years |
| Analysis of the potential for harmful interference and future coordination strategy. | 5 years |
| Analysis of the potential for harmful interference and future coordination strategy. | 6 years (7 years for planned bands) |
| Satellite launch, in the case of a service to be provided by a newly launched satellite.System operational in accordance with the parameters of the ITU satellite filing.Initial notification data submitted.Relevant radiocommunications licences obtained.Analysis of the potential for harmful interference and future coordination strategy. | 7 years (8 years for planned bands) |

1. In this document, we refer to the ITU Radio Regulations as the Radio Regulations or ITU RR. [↑](#footnote-ref-2)
2. At the time of writing, there were 193 member states of the ITU including Australia; a satellite system is defined in the ITU Radio Regulations as any group of cooperating earth stations and/or space stations using one or more artificial earth satellites. [↑](#footnote-ref-3)
3. The intent of this process is to identify with which administrations that coordination is to be addressed, and not to state an order of priorities for rights to spectrum at a particular orbital position. [↑](#footnote-ref-4)
4. Requirements to coordinate vary across different types of services and frequency bands. [↑](#footnote-ref-5)
5. The filing of a satellite system falls within the spectrum management functions of the ACMA under paragraph 9(j) of the ACMA Act in that it is incidental to or conducive to the performance of the management of the radiofrequency spectrum as set out in paragraph 9(a) of the ACMA Act, which is done in accordance with the *Radiocommunications Act 1992.* [↑](#footnote-ref-6)
6. Satellite system is defined in ITU RR 1.111 as a space system using one or more artificial earth satellites, where a space system (ITU RR 1.110) is any group of cooperating earth stations and/or space stations

employing space radiocommunication for specific purposes. [↑](#footnote-ref-7)
7. Satellite network is defined in ITU RR 1.112 as satellite system or a part of a satellite system, consisting of only one satellite (typically a GSO satellite) and the cooperating earth stations. [↑](#footnote-ref-8)
8. The general obligations of satellite operators under domestic and international law, some of which are outlined in this document, still apply. [↑](#footnote-ref-9)
9. In addition to the 2 options discussed here, satellite operators seeking to operate a satellite system for research, demonstration or trial purposes may apply for a [scientific licence](https://www.acma.gov.au/licences/scientific-licence). [↑](#footnote-ref-10)
10. The option of an area-wide licence for satellite services is limited to the [26 and 28 GHz bands](https://www.acma.gov.au/area-wide-apparatus-licensing-26-and-28-ghz-bands). [↑](#footnote-ref-11)
11. The Australian Space Agency is a non-statutory entity in the Department of Industry, Science, Energy and Resources. [↑](#footnote-ref-12)
12. This is additional to the processes described in this document concerning satellite filing and registration in the MIFR. [↑](#footnote-ref-13)
13. Universities that are established under state, territory or federal legislation. [↑](#footnote-ref-14)
14. More information on transfer and change of ownership is available in section 5 Change of access to an ITU satellite filing. [↑](#footnote-ref-15)
15. Satellite network is defined in the ITU Radio Regulations as a part of satellite system consisting of only one satellite (typically GSO satellite) and the cooperating earth stations. [↑](#footnote-ref-16)
16. A CubeSat is a standardised type of small satellite comprising up to 6 modular units (or cubes) each measuring 10 x 10 x 10 cm. [↑](#footnote-ref-17)
17. Regulatory procedures for frequency assignments to non-geostationary satellite networks or systems identified as short-duration mission not subject to the application of Section II of Article 9. [↑](#footnote-ref-18)
18. Approved by ITU Study Group 4 in July and to be published shortly. For now, available as a [draft](https://www.itu.int/md/R19-SG04-C-0090/en). [↑](#footnote-ref-19)
19. Cost recovery charges are set out in the [Radiocommunications (Charges) Determination 2022](https://www.legislation.gov.au/Series/F2022L01245). [↑](#footnote-ref-20)
20. As required, an invoice is issued for all work undertaken since the previous quarterly invoice. [↑](#footnote-ref-21)
21. Universities that are established under state, territory or federal legislation. [↑](#footnote-ref-22)
22. The meaning of operational control in this instance is the ability to control any aspect of the satellite radio emissions. [↑](#footnote-ref-23)
23. Design of the physical satellite here means the design needed to sign the satellite manufacture contract, rather than design of the satellite system (such as coverage areas, link budgets, beam patterns). [↑](#footnote-ref-24)
24. This may be the Australian Government, or the government of a state or territory of Australia. [↑](#footnote-ref-25)
25. For an applicant with a GSO satellite system in a band that is not subject to the coordination procedure under Section II of Article 9 of the Radio Regulations, the applicant should contact the ACMA for advice on what in addition to the frequency overlap threshold that can be used for coordination with other GSO satellite systems. [↑](#footnote-ref-26)
26. ‘Broadcasting Satellite Service’ as defined in the ITU Radio Regulations. [↑](#footnote-ref-27)
27. ‘Fixed Satellite Service’ as defined in the ITU Radio Regulations. [↑](#footnote-ref-28)
28. The ACMA is under no obligation to act in the satellite operator’s interests should such action need to be taken to meet Australia’s international obligations. [↑](#footnote-ref-29)
29. See section 6 Charges. [↑](#footnote-ref-30)
30. Regulatory procedures for frequency assignments to NGSO satellite networks or systems identified as short-duration missions are not subject to the application of Section II of Article 9. [↑](#footnote-ref-31)
31. The ACMA recognises the confidentiality and commercial sensitivity of contracts that are made for satellite launch and manufacture. [↑](#footnote-ref-32)
32. Recognising that involvement of the ACMA may be required, for example, at the insistence of a foreign administration. [↑](#footnote-ref-33)
33. ITU Rules of Procedure (Part A1, Article 9, Section 9.6); ITU RR 9.53: ‘... the requesting and responding Administrations shall make every possible mutual effort to overcome the difficulties ...’. [↑](#footnote-ref-34)
34. The ACMA cannot process a payment for a greater amount than the amount it currently holds in trust for a satellite operator. [↑](#footnote-ref-35)
35. Time limit is determined from the original date of receipt (at the ITU) of advance publication information or coordination request data. [↑](#footnote-ref-36)