

The Commission is minded to issue a Class Licence which would allow for operators to offer mobile communications on aircraft.

The Telecommunications Act 1984 required that a person running a telecommunications system within the Island must be authorised to do so by a licence granted under s.5.

Section 5 allows the Commission to issue licence to all persons, to persons of a class or to a particular person.

This licence will allow all those persons who are running a telecommunications system only to the extent that the System is a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus used to convey signals or Messages between satellites and aircraft in flight. Certain conditions detailed in the licence have to be met. The licence applies to all classes of people running this system.

Mobile Communications on Aircraft is provided for under the Wireless Telegraphy (Mobile Communication Services on Aircraft) (Exemption) Regulations 2017 (2017 No. 669)<sup>1</sup> as extended to the Isle of Man. The aircraft must be three thousand metres or more above the ground, which means in practice that this exemption applies to aircraft flying through Isle of Man airspace.

If you have any queries on the proposal please contact the Commission.

Any comments on the proposal should be directed, by 3<sup>rd</sup> June 2019 to:

Sue Strang  
Chief Operating Officer

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Email: [cc@iomcc.im](mailto:cc@iomcc.im)  
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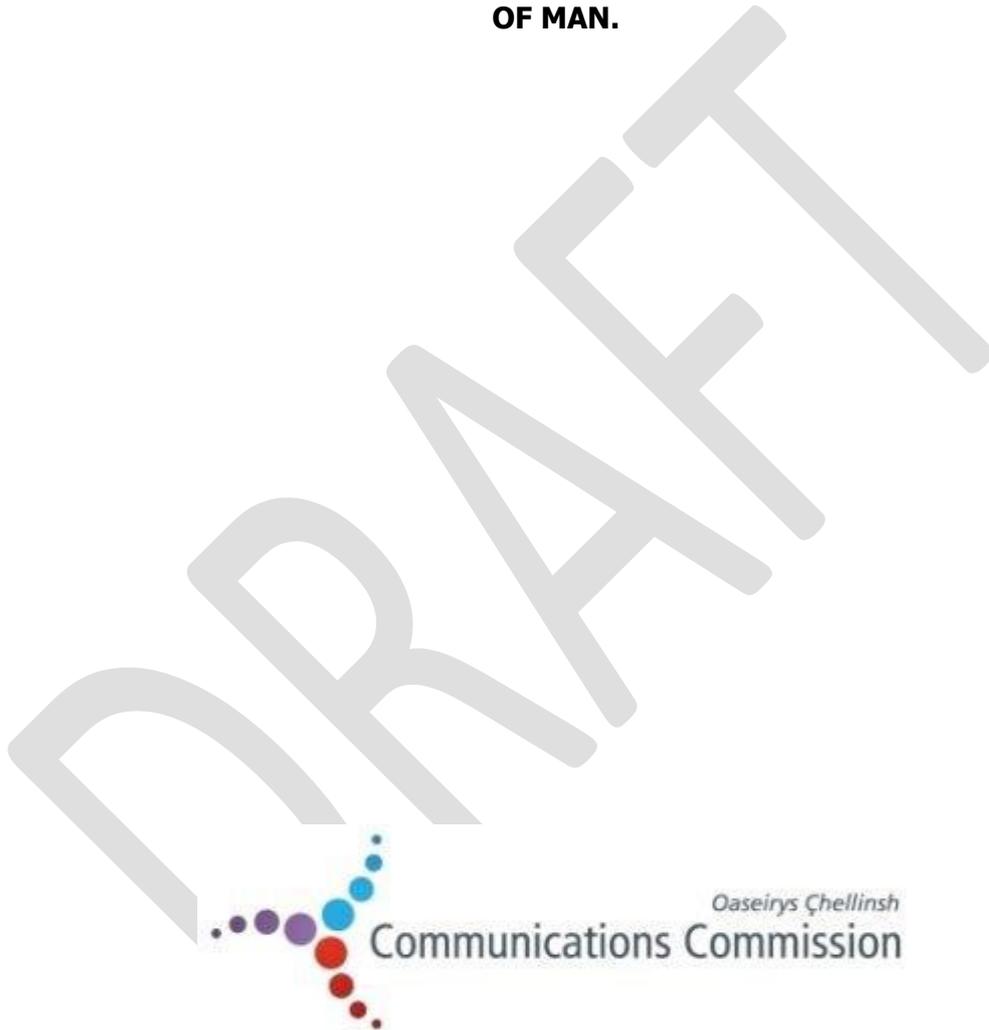
Isle of Man Communications Commission,  
Ground Floor, Murray House, Mount Havelock, Douglas, Isle of Man, IM1 2SF

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<sup>1</sup> [http://www.legislation.gov.uk/uksi/2017/669/pdfs/uksi\\_20170669\\_en.pdf](http://www.legislation.gov.uk/uksi/2017/669/pdfs/uksi_20170669_en.pdf)

**LICENCE GRANTED UNDER SECTION 5 OF THE TELECOMMUNICATIONS ACT  
1984.**

**CLASS LICENCE TO RUN TELECOMMUNICATION SYSTEMS FOR THE  
PROVISION OF THE PROVISION OF IN-FLIGHT CONNECTIVITY IN THE ISLE  
OF MAN.**



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## **Licence Granted Under Section 5 of the Telecommunications Act 1984. Class Licence to Provide In-Flight Connectivity in the Isle of Man**

### **The Licence**

1. The Communications Commission (hereinafter referred to as "the Commission") in exercise of the powers conferred on it by Section 5 of the Telecommunications Act 1984 (hereinafter referred to as "the Act") hereby grants to all persons of the class described in paragraph 2 below (each such person being hereinafter referred to as "the Licensee") a Licence, for the period specified in paragraph 3, subject to the Conditions set out in Schedule 1 and to revocation as provided for in Schedule 2, to run the telecommunication systems specified in annex A (each such system being hereinafter referred to as "the Applicable System") and authorises the Licensee to do all or any of the acts specified in Schedule 3.
2. The class of persons to whom this Licence is granted is all persons with the exception of any person in respect of whom the Commission has revoked this Licence in accordance with Schedule 2 and whose name and particulars are for the time being entered upon a list kept for the purpose by the Commission and open for inspection by the general public.
3. In this Licence:

"Apparatus" means telecommunications apparatus within the extended definition in section 2(3) and Schedule 1 of the Act, and any apparatus which is connected to a telecommunication system;

"Appeal Period" means

- (a) where the Licensee appeals against neither conviction nor sentence, the period within which such an Appeal might have been brought;
- (b) where the Licensee appeals against conviction or sentence or both, the period ending on the date on which such Appeal is finally disposed of;

"Appeal" includes further appeal and application for leave to appeal or further to appeal;

"Licence" means a licence granted or having effect as if granted under section 5 of the Act;

"Message" means anything falling within paragraphs (a) to (d) or section 2(1) of the Act:

"Station for Wireless Telegraphy", "Wireless Telegraphy Apparatus", and "Wireless Telegraphy" have the same meaning as in the Wireless Telegraphy Act 2006.

4. The Interpretation Act 2015 shall apply for the purpose of interpreting this Licence as if it were an Act of Tynwald.

5. Any word or expression used in this Licence shall unless the context otherwise requires have the same meaning as it has in the Act.
6. For the purpose of interpreting this Licence headings and titles shall be disregarded.
7. This Licence shall be governed by and construed in accordance with the laws of the Isle of Man and in every particular including formation and interpretation.

A person duly designated by the Commission

Ivan Kiely  
Chief Executive Officer  
Communications Commission

[date]

## **Schedule 1: Conditions Included Under Section 5 of the Act**

### **Condition 1 - Requirements under the Wireless Telegraphy Act**

- 1.1 The Licensee shall secure that there is in force in respect of the establishment and use of each Station for Wireless Telegraphy and the installation and use of each item of Wireless Telegraphy Apparatus comprised in the Applicable Systems a licence granted under the Wireless Telegraphy Act 2006 as that Act has effect on the Isle of Man, unless that Station or that Apparatus has been exempted from the need for such a licence by regulations made under that section.

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## **Condition 2 - Approval of Apparatus**

- 2.1 Where the Applicable Systems are connected whether directly or indirectly to any public telecommunication system, all the telecommunication apparatus comprised in the Applicable Systems and all the apparatus connected to them shall unless the Commission has consented otherwise in writing and has not withdrawn that consent, be apparatus which is approved for the time being under section 16 of the Act or in such other manner as the Commission may determine for the purposes of that public telecommunications system, provided that any conditions specified in the relevant consent or determination are complied with.

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### **Condition 3 - Compliance with European Community Requirements**

3.1 If the Commission shall so require, the Licensee shall secure that the Applicable Systems are such and are run in such a manner as to comply with any Relevant EU Requirements as they have effect in the United Kingdom.

3.2 In this Condition:

"Relevant EU Requirement" means any requirement relating to the specifications, functioning or use of Applicable Systems which is requisite for the purpose of securing compliance with a EU obligation binding on the United Kingdom and applicable on the Isle of Man;

"EU obligation" shall be construed in accordance with the European Communities Act 1972 of Parliament.

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#### **Condition 4 - Requirement to Furnish Information to the Commission etc**

- 4.1 The Licensee shall furnish to the Commission, in such manner and at such times as the Commission may reasonably require such documents, accounts, estimates, returns, or other information as the Commission may reasonably require for the purpose of exercising the functions assigned or transferred to the Commission by or under Parts II and IV of the Act.
- 4.2 In making any such request the Commission shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and that the Licensee is not required to procure or furnish information which would not normally be available unless the Commission considers the information is required to enable it to exercise its functions, in particular but without prejudice to the foregoing provisions, to satisfy itself that the Licensee is complying with the terms of this Licence.
- 4.3 The Licensee shall permit the Commission and any person authorised by it in writing to inspect the Applicable Systems at any reasonable time for the purpose of verifying whether –
  - (a) the Licensee is running the Systems in accordance with this Licence;
  - or
  - (b) the connection or the proposed connection of any other system to the Applicable Systems causes or would cause any contravention of the Licence under which that other system is run.
- 4.4 If the Licensee is convicted of an offence under section 3(2) of the Act relating to the Applicable Systems, the Licensee shall, not later than fourteen days after the expiry of the Appeal Period, notify the Commission that the Licensee has been so convicted, specifying the offence, the date of such conviction, and the penalty imposed.

## **Condition 5 - Exceptions and Limitations on Conditions in Schedule 1**

- 5.1 Unless the context otherwise requires, the Licensee's obligations under these Conditions have effect subject to the following exceptions and limitations.
- 5.2 The Licensee shall not be held to have failed to comply with an obligation imposed upon it by or under these Conditions if and to the extent that the Licensee is prevented, having used all reasonable endeavours, from complying with that obligation by any topographical or other natural obstacle, by the malfunction or failure of any apparatus or equipment due to circumstances beyond the control of the Licensee, by the act of any national authority, or local authority or international organisation or as the result of fire, flood, explosion, accident (not being negligent acts or default of the Licensee, its employees officers agents or servants), emergency, riot or war.

## Schedule 2: Revocation

1. The Commission may revoke this Licence in its entirety at any time by giving not less than 30 days' notice published in such manner as the Commission considers appropriate.

2. The Commission may at any time revoke this Licence in whole or part in respect of any particular Licensee or in respect of all or any of the Applicable Systems run by a particular Licensee by notice in writing given to the Licensee in any of the following circumstances:

(a) immediately:

- (i) if the Commission receives notification under Condition 5.4 of Schedule 1 that the Licensee has been convicted of an offence under section 3(2) of the Act which involved the use of the Applicable System, or in default of the Licensee giving such notification, within three months of the Commission first having had actual notice of the conviction, or the expiry of the Appeal Period, whichever is the later; or
- (ii) if the Licensee ceased to hold a relevant licence as required under Condition 1 of Schedule 1 to this Licence;

(b) by 30 days' notice in writing given to the Licensee at its registered office:

- (i) if the Licensee fails to comply with an Order made by the Commission (within the meaning of section 11 of the Act) and that order is not subject to proceedings for review and such failure is not rectified within 3 months after the Commission has given notice in writing of such failure to the Licensee;

(ii) if the Licensee:

- (a) is unable to pay its debts (within the meaning of section 163 of the Companies Act 1931 as applied for the purposes of this Licence by paragraph 3 below), convenes any meeting with its creditors generally with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of its creditors generally;

(b) enters into receivership or liquidation;

(c) ceases to carry on its business;

or

- (d) it or any other person takes any action for voluntary winding-up or dissolution of the Licensee or if the Licensee enters into any schedule of arrangements (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission or if a receiver, trustee or similar officer of the Licensee, or of all or any material

part of the revenues and assets of it, is appointed, or if any order is made for the compulsory winding-up or dissolution of it.

3. For the purposes of paragraph 1(b) above in applying section 163(1) of the Companies Act 1931 if a written demand is satisfied prior to the expiry of the notice of revocation the Commission shall not revoke the Licence.

4. The Commission may at any time revoke this Licence in respect of any particular Licensee in the interests of national security.

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**Schedule 3: Authorisation to Connect Other Telecommunication Systems and Apparatus to the Applicable Systems and to Provide Telecommunication Services by Means of the Applicable Systems.**

1. Nothing in this Licence removes any need to obtain any other licence, grant or approval that may be required under any law.

Connection Authorisation

- 2 Subject to the provisions of paragraph 1 above, this Licence authorises the connection to the Applicable Systems of:
  - (a) any other Applicable System
  - (b) any system of an operator holding a licence issued under s.5 of the Telecommunications Act 1984
  - (c) Any earth orbiting apparatus provided that it is not earth orbiting apparatus to which the Commission has notified the Licensee that the Licensee should not, or as the case may be should cease to, connect the applicable system.

## ANNEX A - The Applicable Systems

1. The Applicable Systems are telecommunication systems within the Isle of Man provided that a System is an Applicable System only to the extent that the System is a Station for Wireless Telegraphy or Wireless Telegraphy Apparatus used to convey signals or Messages between satellites and aircraft in flight.

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