

ESOA response to the Dutch Ministry of Economic Affairs consultations

ESOA (the EMEA Satellite Operators Association) is pleased to provide comments in response to the public consultation: **“NFP wijzigingspakket 2015-1, Ontwerpbesluit voor publieke consultatie”**.

ESOA is a non-profit European organisation established with the objective of serving and promoting the common interests of EMEA satellite operators. The Association is the reference point for the satellite operators industry and today represents the interests of all EMEA satellite operators who deliver information communication services across the globe.

ESOA previously responded to the Ministry’s consultation on possible new uses for the band 3600-3800 MHz in October 2012, as well as the Ministry’s consultation on the draft decision to review the National Frequency Plan (NFP) 2005 (pakket 2014-1) in 2014. In each case we highlighted the need to ensure that FSS earth stations operating in the band 3600-4200 MHz are protected from interference from any new terrestrial systems in this band. Unfortunately, ESOA notes that again in the Ministry’s latest consultation no such measures are proposed in the draft new national table of frequency allocations and associated regulations.

The Ministry indicates that these proposed changes would implement European Commission Decision 2008/411/EC. We would like to repeat again, as we did in 2014, that according to Article 1, the Decision aims at harmonising “without prejudice to the protection and continued operation of other existing use in this band”. Consequently the Decision recognises that existing use of this band, for example by the fixed satellite service, should continue to be protected and should continue to operate. Furthermore, the Decision states in para 3 of Article 2 that: “Member States shall ensure that networks referred to in paragraphs 1 and 2 give appropriate protection to systems in adjacent bands”. Hence, it is important that FSS earth stations operating in the adjacent band – 3.8-4.2 GHz - are also protected from interference from new terrestrial wireless systems.

ESOA finds it inexplicable that measures are taken (w.r.t. license duration) to provide longer term certainty for development of mobile services in the 3.5 GHz, whereas there is no recognition towards the need for certainty and stable regulatory environment for incumbent satellite earth station operators. Existing satellite earth station operators in The Netherlands have existing investments and rely on long term certainty to successfully operate their business. While we support the Ministry’s continued protection of the Defence earth station in Burum operating in the band 3.6-3.8 GHz, it is also necessary to protect civil FSS earth stations

operating in C-band in the Netherlands. Alarming, there is no indication in the proposal of provisions to protect those earth stations, despite the clear rationale provided by ESOA already during its 2014 comments. There are further no technical provisions (either for in-band or adjacent band) proposed to e.g. reduce the EIRP levels for the mobile base stations, despite the fact that clear indications are given that small cells are expected to be deployed in this band. The proposed new national table of frequency allocations for the band 3.6-4.2 GHz does still not allow FSS earth stations to be licensed in any part of the band 3.6-4.2 GHz through inclusion of the condition: “Vergunningverlening is niet van toepassing”. As indicated in 2014, this must be changed to allow existing and future FSS earth stations to be authorised and protected from interference.

The Ministry states that terrestrial use will be subject to licensing on a site-by-site basis, which suggests that coordination could be implemented, if the Ministry were to proceed to license civil FSS earth stations, as we propose. The proposals by the Ministry would place at risk the operation of FSS earth stations in the Netherlands, which have been operating legitimately for many years, in conformance with national and international regulations. Large earth stations cost millions of Euro to build and maintain, and to have such investments placed under risk of interference cannot be considered acceptable. Smaller C-band earth stations (e.g. VSATs), are less expensive to install and maintain, but provide valuable services to their users, in most cases without alternatives. To introduce new mobile systems in this band without putting into place measures to protect FSS earth stations is, to the knowledge of ESOA, unprecedented. It is wholly inconsistent with the sharing conditions which form the basis of CEPT Reports 100 and 203, CEPT Decision ECC/DEC/(07)02, and with EC Decision 2008/411/EC.

Furthermore, ESOA was surprised by the additional secondary allocation to ENG/OB in the 3.5 GHz band. Again, no information is provided on how such a secondary service will be protecting the primary Fixed-Satellite Service.

ESOA therefore strongly suggests that:

- The national table of frequency allocations be modified so as to allow for the authorisation of existing and future FSS earth stations operating in the band 3.6-4.2 GHz
- Coordination requirements or additional exclusion areas for terrestrial wireless systems to ensure protection of FSS earth stations must be developed and applied.

The allocation to the fixed-satellite service would remain on a co-primary basis, and new earth stations in the Netherlands in this band should be anticipated. New earth stations should also receive protection from interference from any terrestrial wireless systems deployed after the earth station.

ESOA thanks the Ministry of Economic Affairs for the opportunity to comment, however we are quite concerned with the current proposal. We hope that full and urgent consideration is given to our comments and proposals.

We remain at your disposal for any further discussions with the Ministry as necessary.

Yours sincerely,

Aarti Holla-Maini
Secretary General
+32 2 550 35 75
sg@esoa.net