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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the procedure for authorisation of systems providing mobile satellite services using the harmonised 2 GHz frequency band and repealing Decision No 626/2008/EC (Text with EEA relevance) - General approach

I. BACKGROUND

1. The Commission published its proposal on the Procedure for authorisation of systems providing mobile satellite services using the harmonised 2 GHz band on 27 May 2026. The proposal establishes EU-level procedures for the selection of mobile satellite services (MSS) operators and coordinated authorisation for the use of radio spectrum, enabling the selection of operators for a period of 18 years.

2. The proposal reflects geopolitical circumstances that have fundamentally changed since 2009, to address the need to strengthen European security and technological sovereignty, to ensure efficient use of radio spectrum and to remove constraints impeding European operators in satellite communications.

3. The WP TELECOM discussed the proposal in its meetings on 4 and 11 June, 2 and 9 July, 1 October and 5 November.

4. In addition, the Presidency has asked for the opinion of the Council Security Committee concerning parts related to EU Classified Information (EUCI). The comments from the CSC[1] have been taken into consideration in this compromise proposal.

5. As a result of the discussions in the WP TELECOM on 5 November, the written comments received in the period after, the Presidency has prepared a new compromise text and presents it to Coreper in the Annex to this Note. New additions are compared to doc. 13824/26 are marked with **bold underlined**.

6. The Presidency believes that the compromise proposal takes into consideration all the priorities expressed by the Member States and should enable the Council to reach a general approach respecting the timeframe at our disposal and the particular regulatory and legal framework of the 2 GHz MSS band.

II. WORK IN OTHER INSTITUTIONS

7. In the European Parliament, the proposal was referred to the Committee on Industry, Research and Energy (ITRE). The rapporteur is Angelika Winzig (EPP). ITRE will vote on its Report on 19 November. The EP mandate is expected to be announced in the 23-26 November Plenary in Strasbourg.

8. The European Economic and Social Committee adopted its Opinion on the proposal on 23 September 2026[2].

[1] Doc. 15855/26
[2] Doc. 13653/26

III. MAIN CHANGES

9. Collection of one-off contributions and regular fees

On the basis of the positions expressed by the Member States, the Presidency has clarified the system of the one-off contributions and the regular fees, making sure that they reflect the value of the spectrum and that the costs incurred by the competent authorities of the Member States are covered. To achieve this the Presidency made changes to **Recitals 35 to 39**, as well as amended **Article 18(2) and (3).** In this regard this article now provides clarifications on the method of verification, distribution and collection of the costs incurred by the Member States and the Commission.

10. Granting of the ground and space segments

Based on the positions expressed by delegations, the Presidency has amended **Article 6(1)(da)** to clarify that undertakings applying for the secure MSS/hybrid system have to operate the ground and space segments themselves. Morevoer, changes in **Articles 9 and 10**. **Paragraph 1(f)** confirm that the ITU filing must orginate from a Member State.

11. European technologies and supply chain

The Presidency has sought to ensure legal certainty in **Article 7(1)(f)**, so that the Commission is asked to specify the technologies or services that are not available in the Union (**Recital 14a**). The **new point (l)** of this paragraph reinforces the support for the European technologies and supply chain (this change is mirrored in **Article 11**).

12. Handling of European Union Classified Information (EUCI)

Several changes were made on the issue of handling of EUCI, also taking into account the opinion of the Council Security Committee. Most notably, **Article 8(1)(ea)** now refers to applicants who, other than merely transmit, intend to handle EUCI. The requirements for handling of EUCI are contained in a newly proposed **Annex II**

13. Parameters for complementary ground and/or airborne components

Changes were introduced to **Article 13(3)** so that Member States would be able to set the parameters for these components.

14. Obligation of operators towards law enforcement authorities

The Preisdency has clarified the obligations of commercial MSS operators in granting access to data for administrative, law enforcement and judicial authorities towards the Member States in **Article 15(1)(k).**

15. Extension Period

Changes made to **Article 20(2)** clarify the status of testing and experimental rights of use during the extension period.

IV. CONCLUSION

The Presidency invites the Committee of Permanent Representatives:

– to endorse the annexed compromise text, and

– to submit it to the meeting of the TTE Telecommunication Council on 1 December 2026, with a view to reaching a general approach for the forthcoming negotiations with the European Parliament.

ANNEX

2026/0134 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the procedure for authorisation of systems providing mobile satellite services using the harmonised 2 GHz frequency band and repealing Decision No 626/2008/EC

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[3],

Having regard to the opinion of the Committee of the Regions[4],

Acting in accordance with the ordinary legislative procedure,

[3] OJ C , , p. .
[4] OJ C , , p. […

Whereas:

(1) Mobile satellite services (MSS) **systems** have developed as an innovative complementary platform for the provision of various types of pan-European communications services regardless of the location of end users, such as voice, messaging, high-speed Internet and multimedia **or governmental** and **critical communications including** public protection and disaster relief **and defence**. MSS systems could extend mobile services' coverage beyond the reach of terrestrial mobile networks, in particular in rural areas, thus bridging the digital divide that still remains between urban and rural areas in terms of coverage and quality of service[5].

MSS systems, particularly when interconnected with terrestrial 5G and future 6G networks, should be leveraged as part of national and Union digital policies to ensure ubiquitous connectivity for citizens, businesses and public administrations, including in rural, remote and maritime areas and for public services of general interest. As a supplementary infrastructure, MSS systems could provide connectivity in the event of terrestrial network shutdown caused either by natural disaster or human intervention, thus improving the Union's resilience. They could contribute to the Union's security and autonomy, and to competitiveness of the Union's economy.

(2) Commission Decision 2007/98/EC[6] has ensured the availability of the 1 980 – 2 010 MHz frequency band paired with the 2 170 – 2 200 MHz frequency band (hereinafter '2 GHz MSS band') in the Union for the deployment of MSS systems. Any other use of the 2 GHz MSS band, such as by terrestrial systems, is allowed on a non-protection and non-interference basis, ensuring the priority and protection of MSS.

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5 5G Observatory: EU scoreboard 2025. See also: 5G indicators: coverage | Shaping Europe's digital future

6 Commission Decision 2007/98/EC of 14 February 2007 on the harmonised use of radio spectrum in the 2 GHz frequency bands for the implementation of systems providing mobile satellite services (OJ L 43, 15.02.2007, p. 32, ELI: http://data.europa.eu/eli/dec/2007/98(1)/oj)

(3) Decision No 626/2008/EC of the European Parliament and of the Council[7] established a common framework for the selection at Union level of MSS providers and their national authorisation under harmonised technical and operational conditions. The purpose of the Decision No 626/2008/EC was to **support** the availability of pan-European services and end-to-end connectivity, as well as to encourage efficient investment. Based on the procedure set out in Decision No 626/2008/EC, two undertakings were selected in 2009 by virtue of Commission Decision 2009/449/EC and authorised to use each a paired block of 15 MHz of spectrum (15 MHz Earth-to-space and 15 MHz space-to-Earth direction) in all Member States until May 2027. Legal successors of both MSS providers selected in 2009 provide mobile satellite services to business customers and consumers, based on geostationary satellites, and at different levels of spectrum utilisation and development of customer base.

(4) **The 2 GHz MSS band in the Union is distinguished by a unique combination of legacy regulatory conditions and technological deployments that directly affect its use as the** provision of MSS has considerably evolved since Decision No 626/2008/EC entered into force. In particular, the latest developments in satellite technology and use cases, resulted in the emergence of multi-orbit constellations combining the use of satellites in geostationary Earth orbit (GEO), medium Earth orbit (MEO) and low Earth orbit (LEO). These developments form the basis for the development of innovative services such as Direct-to-Device (D2D) connectivity, which are expected to progressively transform the satellite market, by providing satellite connectivity to mobile phones, tablets and other end-user devices compatible with 5G and beyond. **Such services rely on a single MSS system comprising space stations (satellites) and earth stations, understood as stations located on the Earth's surface or within the atmosphere.**

This **MSS system** will enhance access to high-speed internet for all, particularly in underserved and remote regions, and will strengthen European capabilities in critical communications.

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[7] Decision No 626/2008/EC of the European Parliament and of the Council of 30 June 2008 on the selection and authorisation of systems providing mobile satellite services (MSS) (OJ L 172, 2.7.2008, pp. 15, ELI: http://data.europa.eu/eli/dec/2008/626(2)/oj)

(5) Satellite connectivity with high capacity and global coverage has become essential for strengthening Union's capabilities in governmental and critical communications **such as** emergency response and defence, and a key component for ensuring communication networks' resilience and for enabling seamless connectivity under challenging conditions. Satellite connectivity can play a crucial role in the achievement of the EU security, sovereignty and digital autonomy objectives.

(6) From a regulatory perspective, the 2 GHz MSS band is a unique band, as it is allocated globally to both mobile and mobile satellite services in the ITU Radio Regulations. It is the only band for which a selection procedure has been carried out at EU level and rights of use under certain common conditions have been assigned for the same period of time throughout the EU. Moreover, it is the only MSS band for which the Commission has so far adopted a technical harmonisation Decision.

(6a) **At the same time, t**he globally harmonised 2 GHz MSS band is of particular relevance for the rapid development of satellite D2D and broadband connectivity, as it provides favourable propagation characteristics **and appropriate bandwidth. It is adjacent to terrestrial mobile bands, which makes it easier to develop chipsets for mobile devices that would support it. Such mobile devices are also designed to move freely and are used across the entire Union.** Furthermore**, given its dual mobile service and mobile service satellite allocation, it is very well suited for** the convergence between terrestrial networks ('TNs') and non-terrestrial networks ('NTNs') into a hybrid system, to ensure interoperability and seamless service provision between terrestrial infrastructure – such as fibre and 5G or 6G networks – and space infrastructure, thereby supporting innovation and the efficient use of spectrum. To foster technological leadership, resilience and strategic autonomy, it should be possible that the authorisation of the 2 GHz MSS band fosters new generations of connectivity technologies and architectures that enable the integration of TNs and NTNs into a hybrid system, including also complementary ground and airborne components of the NTN. **The aforementioned regulatory, technical and economic specificities of this band explain why the general authorisation for the provision of services in the 2 GHz MSS band ~~of this~~ at Union level presents significant benefit as compared to authorisations granted at Member States' level, while Member States should remain competent for the granting the authorisation for the use of radio spectrum in this band as well as for authorisations related to complementary ground or airborne components. Such general Union level authorisation for the provision of services in the 2 GHz MSS would allow those operators to deploy D2D services seamlessly across the Union single market and would allow users of mobile handsets supporting this band to receive the services wherever they are located in the Union. This would ensure in particular ubiquitous Union coverage, including seamless coverage in border areas, thus overcoming the existing shortcomings of terrestrial networks.**

(6b) The scope of application of this Regulation should be limited to the 2 GHz MSS band in view of the regulatory, technical and economic particularities of this band and its history of Union-coordinated assignment. It should address both space and terrestrial use of the band by an MSS system and not cover any other band potentially used by the same space or terrestrial infrastructure. Accordingly, this Regulation which is limited to covering the MSS 2 GHz band should be without prejudice to the national authorisation regimes for satellite and radio spectrum, including those harmonised by Directive (EU) 2018/1972 or its successors. It should not affect national legislations related to other spectrum or prerogatives of national competent authorities, including the collection of fees. Additionally, it should not affect the sole responsibilities of Member States in matters of national security and defence, in accordance with Article 4(2) TEU and shall be without prejudice to actions taken by Member States for public order and public security purposes and defence.

(7) *Deleted*

(8) The financial viability of Low Earth Orbit satellite constellations depends on the access to multiple markets on a global scale. Moreover, consistency in spectrum authorisation between neighbouring countries or regions can improve spectral efficiency and enhance frequency coordination.

(8a) In order to maximise the efficient use of the 2 GHz MSS band at a global level, appropriate coordination with neighbouring countries and territories in the geographical vicinity of the Union, including the Arctic, Black Sea and Mediterranean regions, should also take into account the need to prevent harmful interference with existing radio communication systems and to ensure the efficient use of radio spectrum. Such coordination should also take into account the specific geographical circumstances and interests of the areas concerned.

(9) The EU Space Strategy for Security and Defence[8] recognises that space systems and services are vital to society, **the** economy, security and defence in the Union, making space a strategic domain also for secure governmental use. **Security** considerations justify that a portion of the 2 GHz MSS band should be harnessed to boost the Union´s secure governmental satellite communications capacities through the deployment of a secure and resilient MSS system or hybrid system ('a secure MSS/hybrid system'). **In particular, pan-European MSS and hybrid TN/NTN systems in the 2 GHz MSS band should support secure and resilient connectivity for governmental services, emergency response, civil protection and critical digital public services, including continuity of operations in case of major incidents affecting terrestrial infrastructure,** especially when terrestrial communications systems are unavailable, disrupted, or unreliable, for example due to climate related disasters. Moreover, in order to ensure a high level of security, the admissibility criteria for the secure MSS/hybrid system should ensure that only EU owned or controlled providers may be assigned the portion of the band which is dedicated to the provision of secure government-**authorised** services **by organisations performing public functions and operating in the European Union or in its Member States**.

(10) Therefore, in order to meet the objectives of this Regulation of promoting the competitiveness of the European economy through the provision of high-quality mobile satellite services, fostering the development of the internal market as well as of strengthening the Union strategic autonomy in the provision of secure connectivity to governmental users, three distinct selection procedures should be established, one for a secure MSS/hybrid system, one for a Union new entrant in the commercial market and one, which is open also to applicants from third countries.

[8] Joint Communication to the European Parliament and the Council JOIN (2023)9 final

(10a) The procedures shall be open for single undertakings, joint ventures and consortia which undertake to be formalised as a joint venture prior to authorisation. The three distinct selection procedures should follow the same structure, comprising an admissibility phase followed by two selection phases, each of which should finish with an implementing Decision adopted with the assistance of the Communications Committee. Admissible applicants must satisfy all eligibility criteria in the first selection phase. Those applicants meeting the eligibility criteria should be further admitted to the second selection phase, where their applications should be assessed against more detailed selection criteria, the weighting of which should be established in the call for applications. Given the mission-critical nature of the secure MSS/hybrid system, the Commission should have the discretion not to assign the portion of the 2 GHz MSS band dedicated to that system despite a formally successful completion of the first or second selection phase. In that case the selection procedure for the secure MSS/hybrid system may be relaunched. Where none of the applicants satisfies the criteria applicable to the selection procedure for a Union new entrant, the selection procedure may be relaunched. To ensure that Member States are properly informed of the selection procedures and of the granting of the authorisations and any other related matters, the Commission should regularly update them of the overall progress of the selection procedures, including by providing them, in a timely manner, information on the number and content of applications submitted for both the secure MSS/hybrid system and commercial MSS systems.

(~~7~~10b) A number of supporting policy actions have been adopted by the Union with a view to accelerating the uptake of the Internet of Things ('IoT'), such as soil monitoring, container tracking, pipeline monitoring, aiming at maximising its potential for the benefit of citizens and businesses. Low-data-rate MSS, which complement or converge with terrestrial systems, play a crucial role in the deployment of IoT solutions **and in critical infrastructure** across diverse sectors, including water infrastructure and water quality management, agriculture, energy, environmental research and transport. They can make use of narrow spectrum blocks up to 1 MHz, also on the basis of shared spectrum use between different operators. It should hence be possible for operators of IoT to bid for a smaller part of spectrum than a paired 5 MHz block.

(11) Given the limited overall bandwidth of the 2 GHz MSS band, the amount of spectrum dedicated to the secure MSS/hybrid system should not disproportionately limit spectrum availability for commercial satellite systems. A paired block of 10 MHz is necessary for such a system to be able to provide not only voice but also broadband internet services to governmental users with sufficient quality[9].

(12) The secure MSS/hybrid system should provide ubiquitous and versatile broadband and narrowband services for secure governmental and critical communications across the Union, supporting voice, data, IoT as well as D2D connectivity. **This includes availability in remote or high latitude areas, where low population density and limited terrestrial infrastructure increase the importance of resilient satellite connectivity**. Furthermore, the secure and resilient MSS/hybrid system could be essential to implement the European Preparedness Union Strategy[10], that stresses *inter alia* the need to embed preparedness by design into EU policies and actions for ensuring the resilience of vital societal functions, including upgrading secure communications between the EU institutions and Member States, and promoting **infrastructure investment for secure connectivity across the Union and** dual-use by design **, serving both commercial and governmental users**. While the secure MSS/hybrid system should primarily provide secure governmental communications services, in order to ensure efficient use of spectrum and maximum benefits for the European economy and citizens, that **dual-use** system should be enabled to use any **unused** spectrum capacity, not **utilised** for the provision **of** secure governmental communications, for the provision of commercial services, under the condition that the priority of providing secure governmental communications is guaranteed.

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[9] Study on Mobile satellite services (MSS) in the 2 GHz band in the EU: Implementation of the current regulatory framework and an overview of the satellite connectivity market, page 16. https://op.europa.eu/en/publication-detail/-/publication/5c28e25b-41b3-11f0-b9f2-01aa75ed71a1

[10] Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and The Committee of the Regions on the European Preparedness Union Strategy, 26 March 2025, JOIN(2025) 130 final.

(12a) MSS systems would complement terrestrial capabilities in providing uninterrupted availability of communication service, in particular to remote and underserved regions, including islands and mountainous areas, providing critical redundancy and resilience against ground-based disruptions, which are particularly important for the provision of safety and disaster relief services in all circumstances. In this context, it is appropriate to ensure that both the secure MSS/hybrid system and the commercial MSS systems provide for a full coverage of the population and the aggregate land area of each Member State. Full coverage should be understood as the combined fulfilment of population and geographic coverage in a near-universal manner under normal conditions, including outermost areas and high-latitude areas, such that mobile satellite services are effectively available to end-users across the Union. In order to ensure that coverage obligations are proportionate and do not create undue barriers to market entry, it is appropriate to establish a phased approach to their implementation.

(12b) For the purposes of assessing the degree of geographical coverage as part of the second selection phase, including territorial waters and exclusive economic zones, in order to promote resilient and secure connectivity also in areas where geographical remoteness and limited terrestrial infrastructure may increase reliance on satellite connectivity, the reference to the overseas territories of Member States should be understood as covering the Overseas Countries and Territories associated with the Union pursuant to Articles 198 to 204 and Annex II to the Treaty on the Functioning of the European Union.

(13) The Union´s Infrastructure for Resilience, Interconnectivity and Security by satellite ('IRIS²'), established by Regulation (EU) 2023/588 of the European Parliament and of the Council[11], is designed to provide secure, resilient and high-performance communications services for the Union and its Member States, while also enabling commercial broadband services. That critical infrastructure strengthens the Union´s digital sovereignty, reduces dependency on non-Union providers, enhances resilience against cyber and hybrid threats, and supports the Union's strategic autonomy and competitiveness in the rapidly evolving global satellite communications market. IRIS² is based on a public-private partnership model, and deploys a multi-orbit constellation combining geostationary, medium, low and polar Earth orbit satellites with advanced cybersecurity and encryption standards. Therefore, in order to ensure a high level of network resilience as well as service complementarity and variety, the preferred approach for ensuring the provision of Union´s secure governmental satellite communications using the 2 GHz MSS band should be based on multi-orbit satellite architecture.

[11] Regulation (EU) 2023/588 of the European Parliament and of the Council of 15 March 2023 establishing the Union Secure Connectivity Programme for the period 2023-2027 (OJ L 79, 17.3.2023, pp. 1, ELI: http://data.europa.eu/eli/reg/2023/588/oj)

(14) As announced in the **ProtectEU – the European Internal Security Strategy**[12] **and the European Preparedness Union Strategy**[13]**,** the Commission **adopted on 30 September 2026 a proposal for establishing** the EU Critical Communication System (EUCCS)[14]**. Its objective is** to **gradually** connect communication networks of all public law enforcement, civil protection and safety responders in Europe by 203**6** to allow for seamless critical communication and operational mobility across the Schengen area. **It is foreseen that s**atellite connectivity **not only through** IRIS² **and the Governmental Satellite Communication (GOVSATCOM) component, established by Regulation (EU) 2021/696 of the European Parliament and of the Council**[15] **but also through secure governmental communication services provided using the 2 GHz MSS band would** provide an essential back-up and **supplementary capability** for the EUCCS **where terrestrial networks are unavailable, degraded, overloaded, or compromised.** In the context of this initiative, it is essential that sufficient **2 GHz** MSS spectrum for broadband and Direct-to-Device connectivity will be available for the EUCCS. Therefore, the holder of the authorisation for the secure MSS/hybrid system should support the operation of the EUCCS.

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12 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ProtectEU: a European Internal Security Strategy, COM(2025)148 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025DC0148.

13 Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Preparedness Union Strategy, JOIN(2025)130 final, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025JC0130&qid=1743603964136.

14 Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Critical Communication System (EUCCS), 30. 9. 2026, COM(2026)1010 final, https://home-affairs.ec.europa.eu/document/download/6a864ca8-29c5-4f4f-aa39-f0f584b7d2b9_en?filename=Proposal%20for%20a%20REGULATION%20OF%20THE%20EUROPEAN%20PARLIAMENT%20AND%20OF%20THE%20COUNCIL%20establishing%20the%20EUCCS.pdf

15 Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU (OJ L 170, 12.5.2021, p. 69, ELI: http://data.europa.eu/eli/reg/2021/696/oj).

(14a) To ensure high level of security of supply, the key components of the secure MSS/hybrid system, as specified in the call for applications, should be manufactured in the Union and integrate Union technologies. In specifying those components, the Commission should consider the availability and technological maturity of Union technologies and the capacity of Union manufacturers to supply the components within the required timeframe, with a view to enabling a system based predominantly on European key components. To ensure that the criterion remains proportionate and takes into account latest market developments, the Commission should be able to waive that obligation where no key components are readily available in the Member States.

(15) In view of the growing importance of secure, effective and resilient communications, for security and defence as well as for the functioning of critical services, it is essential that the assignment of rights of use for a secure MSS/hybrid system in the 2 GHz MSS band ensures a high level of security as well as operational reliability and integrity. Where, following a selection procedure, the Commission concludes that none of the applicants is able to demonstrate such a high-level of capabilities for an effective and resilient secure MSS/hybrid system in accordance with the conditions laid down in this Regulation, it should be possible not to assign this portion of the 2 GHz MSS band. In such circumstances, the Commission should be able to relaunch the selection procedure, in order to ensure that the paired block of 10 MHz in the 2 GHz MSS band is ultimately assigned to an undertaking capable of meeting the requirements, or to explore alternative solutions.

(15a) The secure MSS/hybrid system should ensure early, resilient and measurable availability of secure governmental communication services and maintain a high level of operational capability under conditions of intentional interference and disruptions of terrestrial and submarine communication infrastructure, recognising the Preparedness Union Strategy, the White Paper on European Defence – Readiness 2030, Regulation (EU) 2025/1106 and in European defence projects of common interest proposed under the European Defence Industry Programme.

(16) The European Economic Security Strategy[16] aims to strengthen the Union's economic resilience while safeguarding its prosperity and technological capabilities in an increasingly uncertain and geopolitically challenging environment. Among others, it seeks to protect the Union's public order and enhance its strategic autonomy and security through diversification and increasingly resilient supply chains for critical infrastructure. These objectives could be impaired if commercial MSS across the Union were to be provided exclusively by ~~a single~~ third country operator**s**. Currently, there is no Union satellite operator holding rights to use spectrum in the 2 GHz MSS band. In order to ensure resilience and pursue the Union's strategic diversification, the Commission should pursue diversification of suppliers, including by incentivising the entry of Union owned or controlled satellite operators. For this reason, the Union new entrants should be prioritised to obtain two of the four paired blocks of 5 MHz available for the provision of commercial MSS. **Such diversification should also include a geographically balanced distribution of industrial, technological and operational activities across the Union and the development of trans-European industrial cooperation, in order to strengthen the resilience of Union supply chains.**

(17) In order to safeguard competition, there is a need to prevent ~~that~~ the spectrum available for commercial MSS **being** held by one undertaking or that there is significant asymmetry between the spectrum holding of commercial MSS operators. This should be ensured by a spectrum cap of paired block of 10 MHz, which should apply to applicants for the provision of commercial MSS services. The applicant selected to provide the secure MSS/hybrid system should **also** be able to obtain, in addition to the two paired blocks of 5 MHz for the priority provision of secure governmental communications, **a** maximum **of** two paired blocks of 5 MHz for the provision of commercial MSS.

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[16] Joint Communication to the European Parliament, the European Council and the Council on "European Economic Security Strategy", JOIN/2023/20 final

(18) **Complementary ground and/or airborne components use the same portion of the 2 GHz MSS band as the space-based component of the MSS system and constitute an integral part of that system for the provision of electronic communication services under the control of its resource and network management core. These components should be deployed exceptionally in Union locations, where the availability of MSS could not be ensured with the required quality solely by space stations. The predominant reliance on complementary ground and/or airborne components could change the nature of the MSS system towards a terrestrial network, which contradicts the objectives of this Regulation and could adversely affect competition in mobile terrestrial networks. Therefore, a commercial MSS system in the 2 GHz MSS band should provide services using predominantly space-based components.**

(**18a**) A hybrid system in the 2 GHz MSS band, which integrates a terrestrial network (TN) and a non-terrestrial network (NTN), including any complementary ground or airborne components, should ensure, where appropriate, radio interference management and coexistence with other relevant wireless systems within the band and in adjacent bands. To that end, the Commission may include technical and operational conditions for the secure MSS/hybrid system in the call for applications, subject to prior technical studies.

(19) In order to avoid distortion of competition in the terrestrial mobile market and foster the swift and competitive deployment of advanced technologies, the use of terrestrial and non-terrestrial network should only be allowed for secure MSS / hybrid systems.

(19a) Different Union policy areas, such as electronic communications, research, space, transport, energy, common security and defence, audiovisual and cultural policies rely on radio spectrum, through Union programmes, such as the Union Space Programme and satellite systems, including Galileo or Copernicus, thus enabling public services and applications to be developed and deployed in support of Union policies. Hence, the protection of the Union's policies may require the coordination of spectrum used by authorised systems under this Regulation with other terrestrial and satellite systems serving Union policies. Accordingly, holders of rights of use of 2 GHz MSS band should guarantee compliance with applicable ITU Radio Regulations' rules on satellite coordination and avoidance of harmful interference as well as coordination with other existing and future satellite systems, especially those which are of special importance for Union's Space programmes.

(20) Data transmitted over a satellite constellation may land at different locations. With a view to prevent**ing** data **traffic** from being exposed to a foreign legal regime **related to data**, applicants for any MSS system in the 2 GHz MSS band in the Union should not be subject to obligations which allow jurisdictions outside the Union access **to** the data transmitted over the Union's MSS system. Moreover, all traffic should be routed through the Union territory, to ensure that public **law enforcement authorities** may exercise their competence as regards **data retention, access and** lawful interception. **This Regulation should not create any new obligations, competences or powers in relation to lawful access to data, including cross border access, and should be without prejudice to existing national law on lawful interception or access to data, as well as Regulation (EU) 2023/1543**. Furthermore, the authorisation of the 2 GHz MSS band provides an opportunity to promote a Union-level ecosystem, including supply chain for manufacturing, deployment and operation of the system along with a high level of integration of technologies developed in the Union, with a view to reduce strategic dependencies and prevent security risks as well as systemic vulnerabilities.

(21) To promote market entry opportunities for new operators and effective competition, foster innovation and ensure the proper functioning of the internal market, applicants to MSS commercial systems should **be required to provide for wholesale access to satellite capacity on fair, reasonable and non-discriminatory terms, and should be incentivised to provide for wholesale access to satellite spectrum, in particular for IoT service providers.**

(22) Directive (EU) 2018/1972 of the European Parliament and of the Council[17] establishing the European Electronic Communications Code, provides a framework for coordinated spectrum management in the Union, including for satellite spectrum, setting out general principles which - in the absence of specific rules - are also relevant for Decision No 626/2008/EC. As a general rule, national competent authorities are responsible for the authorisation of the use of radio spectrum.

(22a) Mobile satellite services and services provided by hybrid systems authorised under this Regulation constitute electronic communications services within the meaning of Directive (EU) 2018/1972 and, where provided to consumers, fall within the scope of Directive (EU) 2019/882 on the accessibility requirements for products and services. In accordance with Article 111 of Directive (EU) 2018/1972, end-users with disabilities should enjoy equivalent access to and choice of such services.

(23) *Deleted*

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[17] Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, pp. 36, ELI: http://data.europa.eu/eli/dir/2018/1972/oj)

(24) **To protect Europe's strategic interests, security, and technological sovereignty and to provide for regulatory certainty needed to foster innovation, competition, and investment in particular, in the evolving D2D connectivity market, it is necessary to provide for an authorisation to provide networks and services in the 2 GHz MSS band at Union level. It is also necessary to introduce a harmonised framework for the use of the radio spectrum in that band at national level, including for the use of complementary ground components or airborne components which should establish a harmonised set of conditions for the entire Union, while preserving the possibility for Member States to require, in accordance with national law, any authorisation or permit necessary for the deployment or operation of such components .**

(25) This Regulation should hence also set out a **harmonised** framework for the authorisation of the 2 GHz MSS band **granted by Member States**. **The authorisation should be subject to a harmonised set of conditions which cannot be derogated from nor supplemented by further conditions introduced at national level.** This **approach** would address regulatory fragmentation and reinforce the Union's strategic autonomy and security, **whilst** also supporting EU space and connectivity policy objectives.

(25a) **The provision of electronic communication ~~networks and~~ services in the Union has since 2002 been subject to a general authorisation, i.e. with respect to pre-defined obligations. Providers may start providing networks and services without the need to receive any prior authorisation. As the MSS and the underlying MSS systems are a type of electronic communication networks and services, they should be provided under general authorisation at Union level. The conditions attached to the general authorisation should include appropriate measures in order to safeguard consistency with the Union's policies relying on spectrum.**

(26) Taking into account the strategic importance of the secure MSS/hybrid system, **the** selected applicants **should** commit to the provision and continuous operation of secure governmental communications services, including the operation, maintenance, replenishment and protection of the relevant satellite and terrestrial infrastructure. Given the mission-critical nature of governmental services and their inherent link to the IRIS^2 system's governmental infrastructure, which is owned by the Union pursuant to the Article 6 of Regulation (EU) 2023/588, the Union **framework for the** authorisation **of MSS systems** should ensure the integration of the secure MSS/hybrid system with the IRIS^2 system. The call for applications should specify the level of integration of the secure MSS/hybrid system with the IRIS^2 system, for instance addressing the overall management of end-to-end security services by using hardware, software and standards in line with the specifications set out in Regulation (EU) 2023/588, ensuring the establishment on the Union's territory of a principal ground control station of the secure MSS/hybrid system as an integral part of the IRIS^2 network management, or hosting and management of IRIS^2 payloads. **Integration may also include the contribution of complementary service capabilities to the IRIS² architecture, including additional service layers supporting narrowband Internet of Things (NB-IoT) applications of public interest.** Furthermore, the Union **framework for the** authorisation **of MSS systems** should ensure compliance with the highest applicable cybersecurity requirements, and require appropriate measures to guarantee the integrity, security and resilience of the system components and their operation, thereby safeguarding the priority and continuity of governmental communications services. **To ensure an effective integration of the secure MSS/hybrid system with the IRIS^2 system at further development stages, the Commission may set out further technical specifications taking into account the level of maturity of the IRIS^2 system. Minimum information should be made available to applicants prior to submitting their applications, with the view to ensuring that they can submit technically, operationally and functionally feasible proposals for the integration with IRIS^2, without prejudice to the need to safeguard security and confidentiality. To ensure that any prior or ongoing participation in the implementation of Regulation (EU) 2023/588, or access to information, interfaces, infrastructure or assets resulting therefrom does not confer an undue competitive advantage on applicants for the use of the band in the secure MSS/hybrid system, equal access to relevant information, interfaces and the prevention of conflicts of interest should be ensured during the selection procedure.**

(27) *Deleted*

(28) Taking into account that the deployment of D2D technologies is still evolving and its operational characteristics and market uptake remains uncertain, it is appropriate to limit the duration of the rights of use in order to allow the Commission **and Member States** to reassess the technological, market and security conditions once the technology has matured**, and in order to maintain competition.** The rights of use of spectrum in the 2 GHz MSS band should, therefore, be authorised for a period of 20 years, which is sufficient to recuperate the initial investment and at the same time preserves regulatory flexibility, promotes efficient use of spectrum and allows the conditions of use to be adapted in light of technological developments following the initial deployment. **Any renewal of the rights of use should be subject to an assessment of technological and market developments, the efficient use of spectrum, competition and the continued achievement of the objectives of this Regulation.**

(29) A comparative selection procedure should be used for the assignment of this spectrum, because the indirect benefits for the EU of the development of a satellite project and the provision of the mobile satellite services in this band are more important than the direct benefits from any possible auction proceeds. Moreover, applicants should be selected predominantly on the basis of the quality, and innovation capacity of their offers as well as on the basis of the extent to which the selection of a particular applicant or applicants promotes competition and avoids any threat to competition, and not by the amount offered as a financial contribution. This should be reflected in particular in the weighting of the criterion related to the avoidance of threats due to the possible creation or strengthening of a dominant position as well as by a lower weighting of the one-off financial contribution criterion.

(29a) **Member States should be involved in every step of the comparative selection procedure organised by the Commission through their representatives in the Communications Committee. For this reason, they should be informed without undue delay and their representatives should have access to all relevant documents, ~~in~~ with due respect of confidentiality and business secrets. Each step of the procedure should be concluded with the adoption of an implementing act. The Communication Committee should assist the Commission in the adoption of all acts.**

(29b) **The selection procedure should be launched with the publication of the call for applications. The call for applications should detail procedural, organisational and substantial aspects related to the selection procedure to enable potential applicants to submit complete applications. For example it should specify the required content, such as evidence and documents to be submitted, and the applicable deadlines and form of submission in order for an application to be considered admissible. Furthermore, it should further detail, where necessary, the admissibility and eligibility requirements, selection criteria and authorisation conditions. The call for applications may also provide for areas of strategic importance that should be covered by priority. *Inter alia* it should specify the minimum level of the one-off financial contribution that should be proposed in the application, the methodology for calculating the level of annual fees, as well as any payment arrangements. It should establish evaluation methodologies, scoring arrangements and weighting of the selection criteria. Furthermore, it should clarify issues related to practical deployment of the 2 GHz MSS systems by selected applicants, such as rules for the use of a shared paired block of 5 MHz, including for its partitioning into dedicated channels up to 1 MHz, the minimum requirements related to capacity, availability and quality of services, or the minimum level of integration with the IRIS^2 system, as applicable.**

(30) The rights of use for **the** secure MSS/hybrid system should be assigned through a comparative procedure against the commitment of the development and operation of **the~~a~~** project, and a~~ny~~ financial contribution. **In order to** preserve **the** security, integrity and resilience of the secure MSS/hybrid system operation and **to** allow compatibility of such system with the IRIS^2 system, the admissibility requirements should reflect the eligibility and participation conditions set out Article 24 of Regulation (EU) 2021/696.

(31) Taking into account the importance of MSS for the Union, the Commission should be empowered to set in ~~a~~**the** call**s** for application a date by which the continuous provision of MSS should commence. **This date should also serve as the starting point for the deadlines by which certain requirements should be achieved, such as coverage-based requirements. These deadlines could differ for the secure MSS/hybrid system and for commercial MSS systems.** Continuous provision of MSS refers to the service for which all tests have been concluded, and service is fully commercially deployed and provided to users in an uninterrupted manner without degradation of service quality or service outages**, other than interruptions resulting from circumstances beyond the control of the operator, including propagation conditions, space weather, force majeure or other exceptional events**. This requires that a communication link is always established to a particular geographical area either by including that area in the coverage area of a geostationary Earth orbit satellite or by ensuring the seamless handover of the communication link to that area by satellites in non-geostationary Earth orbit or orbits or a combination thereof.

(31a) **In accordance with the ITU Radio Regulations, a new satellite system must be coordinated with all satellite systems that have already launched or been notified which the new satellite system might affect and adjust parameters so that it does not cause harmful interference to such systems. The new satellite system receives recognition and protection for its operation only upon successful completion of the coordination process. While this Regulation does not preclude applicants who have not completed coordination processes from being admissible in the selection procedure, it has direct implications on their ability and speed to launch an MSS system and to provide interference-free MSS services. For these reasons, the applications would also be ranked, in the second selection phase, taking into account the regulatory status of ITU filings.**

(32) The rights for use of the 2 GHz MSS band for secure MSS/hybrid systems should not be transferable in order to ensure that they are used for the purpose for and under the conditions which they were assigned. **In order to promote the efficient use of spectrum and to support dual-use, i.e. both governmental and commercial use of terrestrial and space infrastructure, the rights of use for the secure MSS/hybrid system could be leased on the Union territory or parts of it. T**he rights of use for commercial purposes should be in principle transferable. The Commission should specify the conditions governing transfer or lease of the rights of use for commercial services at the time the rights are granted. The transfer of rights should be restricted to parties that meet the admissibility and eligibility criteria specified in this Regulation. To facilitate such transactions, and provided that technical implementing measures adopted under Decision No 676/2002/EC of the European Parliament and of the Council[18] are respected, the Commission should also consider requests to partition or disaggregate spectrum rights and to review the related conditions of use. The Commission should be able to refuse **requests for** a transfer or lease on grounds of security, sovereignty, or other public policy objectives, including the promotion or maintenance of effective competition, or where there are insufficient guarantees that the spectrum will be used in accordance with the authorisation conditions or for its intended purpose. **Following the assessment made by the Commission and to ensure that both the rights to use the radio spectrum and the rights granted for the provision of service in the 2 GHz band follow the same legal treatment, the Member States and the Commission should coordinate their actions to accept or refuse the transfer or the lease of the rights they have respectively responsible for.**

[18] Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (OJ L 108, 24.4.2002, pp. 1, ELI: http://data.europa.eu/eli/dec/2002/676(1)/oj)

(33) The adequate characteristics of the 2 GHz MSS band for provision of D2D services increase the economic value of the band for its users. **Due to technological progress in the field of satellite communications, in particular the possibility of satellites to communicate with standard non-proprietary user mobile devices, and the convergence between TNs and NTNs, the coordinated management of the 2 GHz MSS band at the European level has the potential to maximise its value for the Member States and the Union. Hence it is necessary to effectively manage and efficiently use radio spectrum in a strategic way. A framework for the authorisation of MSS systems in the 2 GHz band allows its holder to access the band across the entire single market under uniform authorisation conditions, allowing the deployment of seamless pan-European services.** In order to ensure an efficient allocation and use of the 2 GHz MSS band and, to support Union spectrum management activities, it is appropriate to establish financial contributions and spectrum fees for the use of the 2 GHz MSS band.

(34) *Deleted*

(35) Given the high value of the 2 GHz MSS band, the comparative selection procedure should include amongst the selection criteria the requirement for applicants to propose a one-off financial contribution, in the form of a sealed bid**, which shall be allocated to and collected by Member States after deduction of the costs incurred by the Commission to organise the selection procedure, on the basis of a decision addressed by the Commission to the holder of the right**. Such contribution reflects willingness to pay for the attribution of the **finite** spectrum resource, against the constraints of the authorisation conditions, and promotes efficient allocation by capturing its competitive market value. Such financial contributions should however not result in the selection being determined predominantly by the amount offered.

(36) The Commission may determine the **methodology** for setting out the amount of the minimum one-off contributions via delegated act, taking into account the value of the spectrum and the necessary investments. **Given that spectrum constitutes a national resource, the one-off contributions should be allocated to and collected by the Member States and divided between them according to a distribution key established by way of implementing acts**. The minimum contribution for the right of use for the secure MSS/hybrid system could differ from the one for the MSS commercial system and could be set at zero, depending on the higher security requirements and additional investment needed to ensure the required level of security and the risk that the financial contribution would be to the detriment of security. A separate evaluation of the minimal amount of the one-off financial contribution for the secure MSS/hybrid system might be also justified by the expected higher cost of operation and lower economic viability of these systems due to the uncertainty of demand for secure governmental communication services. Additionally, this uncertainty combined with the obligation to prioritise secure governmental communications services **makes it** difficult to predict when spectrum would be available for commercial use. **The minimum levels of the one-off financial contributions should be decided by way of implementing acts.**

(37) *Deleted*

(38) 2 GHz MSS right holders should be subject to an annual fee **which reflects the actual value of the right of use to contribute to the efficient use of the 2 GHz band and** that cover**s all** the **estimated objectively justified and proportionate administrative** costs incurred by Member States and the Commission for their respective tasks as established in this Regulation. **The annual fees are without prejudice to any other fee that national authorities might impose other than for the use of the 2 GHz MSS spectrum band.** The annual fee should at least cover the administrative cost of management, control and enforcement of the general authorisation for provision of services and networks and of management of spectrum authorisation at **both** Union **and Member State** level**s** including the cost of implementing the relevant authorisation conditions and of monitoring spectrum use. **Costs relating to national spectrum-management functions, including frequency assignment, coordination, monitoring of spectrum use and harmful-interference management, should be recoverable by the Member State that incurred them, while costs relating to the Union general authorisation and to authorisation, coordination, monitoring or enforcement activities carried out at Union level should be recoverable by the Commission or, where applicable, by the Union body that incurred them**.

(39) The methodology for setting the annual fee should be defined by **a** delegated act. The annual fee should be proportionate and should be set at an appropriate level so **as to ensure efficient use of spectrum and the full recovery of estimated costs incurred by the Commission and the Member States arising from the proper monitoring and enforcement of the Union authorisation.** The applicable amounts of the annual fees should be **addressed to the holder of the rights in a consolidated invoice issued by the Commission specifying the fees levied by the Commission and the Member States and should be collected by Member States and by the Commission for their respective parts**.

(40) **A coordinated enforcement mechanism should enable the Commission and the Member States' authorities to react effectively in cases of non-compliance to protect the Union's strategic interests, security, and technological sovereignty. It should also create the regulatory certainty needed to foster innovation, competition, and investment in particular, in the evolving D2D connectivity market.** The Commission should, together with the Member States, take appropriate measures with a view to ensuring effective monitoring and enforcement of the authorisations, in full compliance of the rights of defence of the undertakings concerned. **In order to enable the Commission and the authorities of the Member States to react effectively in cases of non-compliance, it should be possible where urgent action is necessary to take appropriate interim measures at Union or Member State level.** Monitoring arrangements to evaluate the provision of services and efficient use of spectrum should rely both on national capacities and **on** cooperation with the European Space Agency. **Monitoring arrangements should include verification of the technical conditions attached to the authorisation as well as of the compliance with the authorisation requirements, including ownership control, service coverage, service quality and, where applicable, security obligations of the MSS systems. They should establish operational procedures for rapid information exchange, national monitoring, interference management, breach reporting and administrative reporting between the concerned national competent authorities and the Commission.**

(41) **Member States and the Commission should ensure that the enforcement of this Regulation is carried out in a coordinated manner. National competent authorities should be responsible for monitoring of, in their respective territories, compliance with the conditions attached to the rights of use of radio spectrum granted within their competences, the conditions applicable to complementary ground or airborne components, conditions relating to the use of radio spectrum, including frequency assignment and coordination, the operation of ground stations, coverage and quality of service, binding intermediate deployment milestones, and the prevention and management of harmful interference, and any other condition which falls within the competence of the Member States. The Commission should be responsible for monitoring compliance with the conditions attached to the general authorisation under its competence, conditions relating to the provision of MSS services at Union level, obligations requiring uniform or coordinated implementation throughout the Union, and conditions which fall within the competence of the Commission. Where harmful interference is of a cross-border or third country nature, the Commission should be responsible for coordinating the actions of Member States.** The Commission should be empowered to impose fines or periodic penalty payments for breaches of **general** authorisation conditions **or other breaches falling within its competence within this Regulation**. Such fines should be proportionate and should take into account **inter alia** the gravity and duration of the infringement and, where the infringement concerns a breach of national rules, any penalties already imposed by national authorities. In order to effectively ensure compliance, Member States should give full effect within their territory to decisions imposing corrective measures or sanctions. Where the conditions attached to the use of the 2 GHz MSS band are breached through repeated and substantial non-compliance, the Commission should be empowered to withdraw the general authorisation for the networks and services and **the Member States should act to** withdraw the **national spectrum** authorisation**s in their respective territories. The Commission** should launch a new selection procedure in accordance with this Regulation.

(42) The rights of use granted in accordance with Commission Decision 2009/449/EC[19] should be extended for a period of **three** years, under the same authorisation conditions currently provided in the Decision No 626/2008/EC and national legislation The extension shall only benefit incumbent rights holders and ensure the continuity of their services. During the period of extension, the rights of use should neither be transferred nor leased or sub-leased. In order to ensure efficient use of spectrum, during the period of the extension of an existing licence, spectrum sharing **arrangements should guarantee non-discriminatory access to experimental use** trials by new users on a non-protection and non-interference basis. Such experimental activities would generate valuable technical and operational knowledge about emerging technologies, spectrum coexistence, and compliance challenges and accelerate the full-scale deployment of innovative **MSS**.

(42a) In order to ensure further continuation of certain services, which have been deployed by the incumbent MSS right holders and taken up by customers, the authorisation conditions for the 2 GHz MSS band under this Regulation could provide for a degree of service continuity and provide for solving any dispute between incumbent operators and new entrants in this matter, in the event that the rights of use would be allocated to new entrants.

(43) In order to ensure the effectiveness of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to extend the admissibility requirements to applicants from geographically neighbouring countries and to specify the methodologies for establishing fees. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[*]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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[19] Commission Decision of 13 May 2009 on the selection of operators of pan-European systems providing mobile satellite services (MSS), OJ L 149, 12.6.2009, pp. 65, ELI: http://data.europa.eu/eli/dec/2009/449/oj

(44) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission to adopt implementing acts related to the selection and the authorisation procedures, as well as to the mechanisms aimed at ensuring enforcement of the authorisation and the collection of fees. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[20]. To ensure the proper involvement of Member States on questions that are of potentially important impact, it is necessary to provide, where appropriate that those implementing acts are adopted in accordance with the examination procedure set out in that Regulation.

HAVE ADOPTED THIS REGULATION:

[20] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

CHAPTER I – GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a comparative Union procedure **and a harmonised framework** in support of the internal market for selecting **and authorising** holders of the right to use spectrum in the 2 GHz mobile satellite services (MSS) band **who shall own or control, and operate, a ground and space segment** for the provision of MSS systems or hybrid systems under **harmonised** conditions **throughout** the Union, **while respecting the responsibilities of Member States under Union law and the ITU Radio Regulations**.

2. The **Regulation** contributes to the Union's security and preparedness by **setting out rules on the** use **of a** portion of the 2 GHz MSS band for the provision of a secure MSS/hybrid system that enables long-term ubiquitous availability within the Union's territory of, and worldwide uninterrupted access to, secure, resilient, high-quality, and cost-effective governmental communication services to government-**authorised** users.

3. This Regulation also supports the Union's competitiveness, resilience, technological sovereignty and economic security **through** the provision of mobile satellite networks and services by selecting and authorising one or more Union new entrants for a right to use a dedicated portion of **and the promotion of effective competition and innovation in** the 2 GHz MSS band.

4. This Regulation shall be without prejudice to responsibilities and competences of Member States with regard to maintaining law and order and safeguarding national security as well as for defence purposes in accordance with Article 4(2) TEU, including actions taken by Member States for those purposes.

Article 2

Definitions

For the purposes of this Regulation, the definitions in Article 2 of Directive (EU) 2018/1972 shall apply.

The following definitions also apply:

(1) ‘mobile satellite service~~s~~ (MSS)’ means either of the following:

(a) radiocommunications service~~s~~ between ~~a~~ mobile **earth** station**s** and one or more space stations;

(b) radiocommunications service~~s~~ between mobile **earth** stations by means of one or more space stations;

(c) radiocommunications service~~s~~ between ~~a~~ mobile **earth** station**s** and one or more complementary ground and/or airborne components;

(2) ‘**gateway earth** station’ means stationary **earth station**, which is used either only for transmission (‘transmit-only’), or for transmission and reception (‘transmit-receive’), or only for reception (‘receive-only’), of radiocommunication signals by means of satellites or other space stations and which originates and/or terminates traffic (e.g. for backhaul) for the communication with space stations;

(2a) ‘mobile earth station’ means an earth station in the mobile-satellite service intended to be used while in motion or during halts at unspecified points.

(3) ‘complementary ground components’ means ground-based stations used at fixed points and deployed in order to improve the availability of satellite services in geographical areas within the footprint of the satellites, where communications with one or more space stations cannot be ensured with the required quality;

(4) ‘complementary airborne components’ means stations **located on an object at an altitude of 20 to 50 km and** used at specified, nominal, fixed points relative to the Earth surface and deployed in order to improve the availability of satellite services in geographical areas within the footprint of the satellites, where communications with one or more space stations cannot be ensured with the required quality;

(5) ‘continuous provision of MSS’ means the ability to maintain uninterrupted mobile satellite services at all times without degradation of service quality or service outages **except in circumstances beyond the control of the MSS operator;**

(6) ‘2 GHz MSS band’ means radio spectrum in the frequency bands from 1 980 to 2 010 MHz for Earth-to-space communications, and from 2 170 to 2 200 MHz for space-to-Earth communications, which is harmonised at the Union level;

(7) ‘paired block’ means two spectrum blocks of equal amount with a duplex spacing of 190 MHz within the 2 GHz MSS band, one used for Earth-to-space communications, and the other used for space-to-Earth communications.

(8) ‘MSS system’ means a system capable of providing **MSS** that includes one or more space stations in one Earth orbit, or multiple space stations in different Earth orbits, and that may comprise complementary ground and/or airborne components **as integral parts of the system**;

(9) ‘hybrid system’ means an integrated system, which consists of an MSS system and a terrestrial (e.g. mobile) network, and which provides communications services so that the MSS system ensures complementary coverage for the terrestrial network;

(10) ‘secure governmental communications services’ means **public interest electronic communication** services which are provided **through the secure MSS/MSS hybrid system** to government-authorised users, by providers which fulfil appropriate security and resilience requirements;

(**10a**) **‘government-authorised users’ means:**

a) a Union or Member State public authority **or a body** entrusted with the exercise of **public authority;**

b) a natural or legal person acting on behalf and under the control **of an entity referred to in point (a);**

which are authorised by the Union or Member States to access secure governmental communications services.

(11) ‘dedicated governmental network layer’ means a circumscribed layer of the MSS/hybrid system, which is operated by the selected operator under the control of the Union in accordance with this Regulation and the call for applications. The determination of its main characteristics, supervision of its exploitation and determination of its users is to be done having regard to the principles and technical characteristics set out in Regulation (EU) 2023/588. This network provides a subset of secure governmental communications services to a limited category of government-**authorised** users with enhanced security requirements, for the sole use of the Union, its Member States or Union authorities or Member States’ authorities;

(12) ‘secure MSS/hybrid system’ means an MSS or a hybrid system, owned or controlled either by the EU or by one or more of its Member States or by one or more natural persons who have the nationality **and residency** only of Member States, which is intended to primarily provide secure governmental communications services in the 2 GHz MSS band;

(13) ‘commercial MSS system’ means an MSS system which provides **publicly available** MSS to the public;

(14) ‘landing of traffic’ means routing of mobile satellite communications traffic through a complementary ground component, a complementary airborne component**, a gateway earth station or a mobile earth** station;

(15) ‘security of the supply chain’ means the availability, throughout the lifetime of a system, of critical components, technologies, systems and knowhow required in the deployment and operation of that system, including measures for mitigation of the risks related to possible disruptions in the supply of such components, technologies, and systems;

(16) ‘incumbent’ means an undertaking which has been assigned rights to use the 2 GHz MSS band in accordance with Decision No 626/2008/EC and Commission Decision 2009/449/EC and any undertaking that has lawfully acquired control over it;

(17) ‘turnover’ means the amount derived by an undertaking within the meaning of Article 5(1) of Council Regulation (EC) No 139/2004;

(18) *Deleted*

(19) ‘control’ means the ability to exercise a decisive influence over **an undertaking, within the meaning of Article 3(2) of Regulation (EC) No. 139/2004**.

(20) ‘executive management structure’ means the body of a legal entity appointed in accordance with national law, and which, where applicable, reports to the chief executive officer or any other person having comparable decisional power, and which is empowered to establish the legal entity’s strategy, objectives and overall direction, and oversees and monitors management decision-making.

Article 3

International cooperation

In order to maximise the efficient use of the 2GHz MSS band at a global level, the Commission assisted by the Communications Committee may enter administrative arrangements to co-operate with countries in the geographic neighbourhood of the Union, including the Arctic region, the Mediterranean region and the Black Sea region, in order to facilitate consistency in authorisation and alignment in authorisation conditions with a view to ensuring the provision of services by the selected MSS providers in the Union and neighbouring countries.

CHAPTER II – SELECTION PROCEDURE

Article 4

General rules

1. The Commission, assisted by the Communications Committee referred to in Article 22(1), shall **organise** and carry out a comparative selection procedure, for granting, upon application, rights of use of radio spectrum for six paired blocks of 5 MHz in the 2 GHz MSS band as follows:

   (a) a right to use two contiguous paired blocks of 5 MHz primarily for the provision of the secure MSS/hybrid system,

   (b) a right to use a paired block of 5 MHz or multiples thereof, or a portion of a shared paired block of 5 MHz, for the provision of a commercial MSS system by a Union new entrant,

   (c) a right to use a paired block of 5 MHz or multiples thereof, or a portion of a shared paired block of 5 MHz, for the provision of a commercial MSS system by an applicant from a Member State or a third country.

   The procedure referred to in the first subparagraph shall be open, transparent, non-discriminatory and proportionate, and shall be based on objective, non-discriminatory and proportionate criteria known in advance.

   The Commission shall keep the Communications Committee informed of the overall progress of the selection procedures and of the granting of the authorisations and of any relevant related matters.

   The Commission reserves the right not to grant any right of use referred to in the first subparagraph. **Any decision not to grant a right of use shall be adopted following consultation of the Member States and take the form of an implementing act. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).**

2. Applicants shall be given a fair and non-discriminatory opportunity to participate in the selection procedure. The procedure shall be open for single undertakings and for joint ventures, even if they do not perform on a lasting basis all the functions of an autonomous economic entity, irrespective of their public or private ownership **or to established consortia. Any consortia shall undertake to be formalised as a joint venture prior to authorisation**.

3. An applicant may submit multiple applications for the rights of use for commercial MSS systems referred to in paragraph 1, points (b) and (c). An application may be conditional on the applicant's obtaining rights of use for a certain minimum amount of spectrum.

   The maximum amount of spectrum that may be granted to a single applicant for the provision of a commercial MSS system referred to in paragraph 1, points (b) and (c) shall be a paired block of 10 MHz.

4. An applicant for the right of use for the provision of the secure MSS/hybrid system may additionally apply for rights of use for the provision of a commercial MSS system under the conditions specified in paragraph 3, second subparagraph.

5. The call for applications and all decisions throughout the phases of the comparative selection procedure as well as the final selection of applicants shall be published in the *Official Journal of the European Union*. The Commission shall seek advice and assistance from a panel of external experts, for the analysis and/or evaluation of applications. Such external experts shall be selected on the basis of their expertise and high level of independence and impartiality.

Article 5

Comparative selection procedure

1. The comparative selection procedure shall comprise at most an admissibility phase, a first selection phase and a second selection phase.

2. The Commission shall, by way of implementing acts, issue a call for applications specifying in particular the following:

   (a) the procedural deadlines, evidence and documents to be included in the applications;

   (b) the admissibility and eligibility requirements, and the selection criteria and their weighting;

   (c) the authorisation conditions, including the date of commencement of the continuous provision of MSS;

   (d) payment of any financial contribution and annual fee **which shall be established in a manner proportional to the amount of assigned radio spectrum, including in relation to an applicant applying for a portion of a paired block**;

   (e) where relevant, appropriate criteria ensuring compatibility between MSS and hybrid systems which would allow continuity of incumbent services and the provision of innovative services**;**

   (f) include a request for the applicants that intend to apply for less than 5 MHz to submit a channel plan for the partitioning of the block into dedicated channels of up to 1 MHz;

   Those implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article 22(**3**).

3. Applications shall be submitted to the Commission. **Applicants that intend to apply for a portion of a shared paired block of 5 MHz shall include in their applications a proposed spectrum-sharing scheme for each of the 5 MHz block<u>s</u>, by specifying the technical and operational arrangements for the shared use conditions and the relevant coordination measures to avoid harmful interference.**

4. In the admissibility phase, the Commission shall assess the admissibility of applicants based on the admissibility requirements set out in Articles 6, 9 and 10, as applicable, and on the completeness of their applications.

   The Commission may request applicants to supply additional information regarding the fulfilment of admissibility requirements within a specific time frame of between 5 and 20 working days upon notification. The application shall be deemed inadmissible if such information is not supplied within the specified time frame. The Commission shall inform applicants without delay on whether their applications are considered as admissible or not and publish a list of admissible applicants.

5. The first selection phase shall begin within 40 working days following the publication of the list of admissible applicants referred to in paragraph 4. The Commission shall assess whether admissible applicants fulfil the eligibility requirements laid down in Article 7(1) or Article 11(1). The credibility and viability of applications shall be taken into account throughout the first selection phase **and it shall be assessed on the basis of criteria specified in the call for applications**.

6. **Where the selection procedure is not completed after the first selection phase** in accordance with Article 7(2) or Article 11(2), the Commission shall carry out the second selection phase and rank eligible applicants based on the selection criteria in Article 8(1) or Article 12(1), as applicable.

7. The Commission may adopt a delegated act to extend the admissibility requirements of Articles 6 and 9 to applicants from geographically neighbouring countries, in particular where participation of applicants from such countries would bring significant added value in terms of access to specific technologies, goods or services, or would facilitate coordination to the benefit of seamless coverage of border areas. The delegated act shall specify the conditions for participation and any limitations as to the access of applicants, including members of a joint venture, from **those** countries to the dedicated governmental network layer.

8. The Commission shall, by way of implementing acts, adopt reasoned decisions on the non-admissibility or non-eligibility of an application, as relevant.

9. The Commission shall adopt a decision, by way of implementing acts, to close the selection procedure for any right under Article 4(1) without selecting any applicant if none of the applicants fulfils either the admissibility requirements as set out in Articles 6, 9 or 10, as applicable, or the eligibility requirements as set in Article 7(1) or Article 11(1), as applicable.

10 The implementing acts **referred to in paragraphs 8 and 9,** shall be adopted in accordance with the **examination** procedure referred to in Article 22(**3**).

Article 6

Admissibility phase for the secure MSS/hybrid system

1. The following admissibility requirements shall apply to an applicant for the right of use of the 2 GHz MSS band for the secure MSS/hybrid system:

   (a) to be a legal entity, including a joint venture, established in a Member State with its executive management established in the Union, **or a consortium of undertakings that are established in a Member State, and which fulfils the criteria that are set out in this Article, and that commits, by way of a binding agreement, submitted with the application, to establish such a joint venture, with its executive management in the Union, before the date on which the Union authorisation is granted**;

   (b) to be directly or indirectly controlled only by the Union or one or more Member States or by natural persons who have the nationality **and residency** only of Member States, and not to be subject to control by a third country or by a third country national;

   (c) not **to** be subject to obligations under third country jurisdiction **in relation to the provision of MSS in the Union;**

   (da) to commit to control and operate both a space and a ground segment for the provision of MSS;

   (d) **to** commit to support and promote the security and defence interests of the Union and its Member States as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union;

   (e) to commit to carry out all relevant activities **including telemetry, tracking and control** related to the operation of the secure MSS/hybrid system in **at least three** Member States **ensuring a balanced geographical distribution across different parts of the Union**;

(f) to **have** one or more ITU filing**(s) related** to the 2 GHz band **from a Member State or to have binding contractual access supported by written confirmation from ~~a~~ the notifying administration to one or more ITU filing(s), or to provide evidence of the initiation of a filing procedure by a notifying administration or a commitment by a notifying administration to submit such a filing,** and to **commit to** take all necessary measures ensuring compliance of the proposed commercial MSS system with the ITU Radio Regulations.

2. Where an applicant is a joint venture **or a consortium of legal entities in accordance with paragraph 1(a), all of the following shall apply**:

(a) the requirements set out in paragraph 1, points (a) to **(c) and** (**d**), shall apply to each member of the joint venture **or consortium**,

(b) the requirements set out in paragraph 1, point (e), shall apply at the level of the joint venture or consortium;

(c) the requirements set out in paragraph 1 points **(ca) and** (f) shall apply to at least one member of the joint venture **or of the consortium**.

3. Where an applicant for a secure MSS/hybrid system also applies for a commercial MSS system, Articles 9, 11 and 12 shall apply for that part.

4. Applicants shall specify the amount they commit to pay as one-off financial contribution for the right of use of a paired block of 5 MHz in the 2 GHz MSS band, which shall be equal to or higher than the minimum amount specified in the call for applications.

Article 7

First selection phase for the secure MSS/hybrid system

1. The following eligibility requirements shall apply to applicants for the right of use of the 2 GHz MSS band for the secure MSS/hybrid system:

   (a) to show satisfactory compliance with pre-requisites 1 to 4 as set out in the Annex;

   (b) to commit to provide availability of secure governmental satellite services in **each** Member State, **including island areas,** to at least 95% of the population and **to** over at least 90% of the aggregate land area, no later than five years from the date of commencement of the continuous provision of MSS**, and to full coverage no later than ten years from the date of commencement of the continuous provision of MSS**;

   (c) to commit to landing of traffic, which is generated **or received** by end-users located in the Union territory or routed to or from the Union, within the Union territory;

   (d) to demonstrate technical and financial capacity, and readiness for the development, launching and operation of the proposed secure MSS/hybrid system and provision of services by the date of commencement of the continuous provision of MSS;

   (e) to ensure a high level of security of the supply chain at least for the key components of the secure MSS/hybrid system, which guarantees a reliable provision of secure governmental communications services;

   (f) to ensure **that** the key components of the secure MSS/hybrid system, as specified in the call for applications **are** manufactured in the EU and integrate Union technologies. **The Commission may waive in the call for application the requirements set out therein in respect of specific technologies, goods or services where no substitutes are readily available in the Member States under conditions to be set out in the call for applications;**

(g) to ensure integration with existing and future capacities of IRIS^2 secure communications services, as set out in Regulation (EU) 2023/588, in particular through the setting of a dedicated governmental network layer with the highest degree of security, guaranteeing interconnection with IRIS^2 ground infrastructure and technologies**, and, where relevant, in coherence with the framework established under that Regulation, avoiding parallel structures**;

(h) to commit to provide the capacity for back-up and complementary coverage as well as for Direct-to-Device connectivity of the European Critical Communication Systems established by Regulation (EU) [XXX] of the European Parliament and of the Council establishing the European Critical Communication Systems;

(i) to demonstrate security of operation, including by ensuring that for all data generated and routed in the Union territory there will be no possibility for third party **unauthorised access to or control over** the provision of secure governmental communication services;

(j) *Deleted*

(k) to commit to make every effort to ensure the resilience of the secure MSS/hybrid system, including in cases of jamming and spoofing of radio signals or limited availability or degradation of global navigation satellite systems (GNSS);

(l) to commit to support and promote the Union's research and industrial capabilities across the digital technology supply chain, and integration of Union technologies inter alia in terms of design, construction, launch and operation of the satellites, including the software, the ground segment, including gateway earth stations and ground control stations.

2. The selection procedure shall be deemed complete after the first selection phase, if only one admissible applicant is considered eligible. The Commission shall, by means of implementing acts, adopt a reasoned decision on selecting that applicant for the right of use of the 2 GHz MSS band for the secure MSS/hybrid system. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

3. The Commission may**, in close cooperation with the Member States, adopt, by means of an implementing acts, a decision** not to assign the portion of the 2 GHz MSS band referred to in Article 4(1) point (a) where it concludes that, despite fulfilling the admissibility and eligibility requirements, none of the applicants has convincingly demonstrated a high-level of capability for the deployment and operation of a secure MSS/hybrid system. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).** In such a case, the Commission may relaunch the selection procedure for the secure MSS/hybrid system.

Article 8

Second selection phase for the secure MSS/hybrid system

1. The Commission shall rank eligible applicants for the right of use of the 2 GHz MSS band for the secure MSS/hybrid system based on the following selection criteria, which shall be further specified in the call for applications, including as regards their weighting:

   (a) population and geographic coverage within ten years from the date of commencement of the continuous provision of MSS, comprising the following sub-criteria:

      (i) the degree of population coverage in the Union, based on the population in residential or business areas, including **in** high-latitude polar areas within the Union territory, which **are** within the service area of the system;

      (ii) the degree of geographical coverage in the Union, based on the aggregate land area and on the exclusive economic zones and territorial waters of all Member States, **including their overseas territories**, which is within the service area of the system;

      (iii) the degree of geographical coverage outside the Union, based on the **coverage** area of the system within territories of non-EU countries and high seas;

      (iv) the degree of coverage in areas of high latitude including outside Union territory;

   (b) the schedule of availability of secure governmental communications services across all Member States within ten years from the date of commencement of the continuous provision of MSS.

   (c) the extent to which the public policy objectives, integrity, security and resilience of the services, are achieved;

   (d) the **capability** of an MSS system to be integrated in a hybrid system, and to provide multiple orbit layers;

(e) the quality, suitability and robustness of integration with IRIS^2, as specified in the call for applications;

(ea) the extent to which the applicant protects the transmission of EUCI. In the case where EUCI is handled, the applicant shall commit to comply with the obligations set out in Annex II;

(f) the extent to which the secure MSS/hybrid system enables dual-use provision of secure governmental and commercial communications services;

(g) Union added value, in accordance with the following sub-criteria;

(i) the extent to which the secure MSS/hybrid system reinforces the Union's **research and** industrial capabilities across the digital technology supply chain, **for example through the development of trans-European industrial cooperation and geographically diversified participation of undertakings from different Member States,** inter alia in terms of design, construction, launch and operation of the satellites, including the software**, and the ground segment, including gateway earth stations and ground control stations, and the location of such infrastructure within the Union**;

(ii) the level of integration of Union technologies, including the use of results stemming from Union funded research and innovation programs.

(h) the scope of secure governmental communications services, including a deployment path towards the provision of Direct-to-Device services;

(i) the **financial conditions for services to government-authorised** users;

(j) the level of efficient use of spectrum;

(k) the level of implementation of quantum secure communications **and the extent to which any cryptographic system provides for the exclusive management of the cryptographic keys by the national authorities of the Member States;**

(l) the amount of the one-off financial contribution for a paired block of 5 MHz.

(m) the regulatory status of ITU filing under Article 6(1)(f).

2. After the second selection phase, the Commission shall, **assisted by the Communications Committee referred to in Article 22(1),** by way of implementing acts, adopt a reasoned decision on the non-eligibility of applicants and on selecting the highest-ranking eligible applicant for the right of use of the 2 GHz MSS band for the secure MSS/hybrid system. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

3. The Commission**, assisted by the Communications Committee referred to in Article 22(1),** may decide not to assign the portion of the 2 GHz MSS band referred to in Article 4(1), point (a), where it concludes that, despite fulfilling the admissibility and eligibility requirements, and the selection criteria, none of the applicants has convincingly demonstrated a high-level of capability for the deployment and operation of a secure MSS/hybrid system. In such a case, the Commission may relaunch the selection procedure for the secure MSS/hybrid system.

Article 9

Admissibility phase for commercial MSS systems of Union new entrants

1. The following admissibility requirements shall apply to Union new entrants for the right of use of the 2 GHz MSS band for commercial MSS systems referred to in Article 4(1), point (b):

(a) to be a legal entity, including a joint venture , established in a Member State with its executive management established in the Union, **or a consortium of undertakings that are established in a Member State, and <u>which</u> fulfils the criteria that are set out in this Article, and that commits, by way of a binding agreement, submitted with the application, to establish such a joint venture, with its executive management in the Union, before the date on which the Union authorisation is granted**;

(b) to be directly or indirectly controlled only by the Union or one or more Member States or by natural persons who have the nationality **and residency** only of Member States;

(ca) **<u>to commit to control and operate both a space and a ground segment for the provision of MSS;</u>**

(c) not **to** be subject to obligations under third country jurisdiction in relation to the provision of MSS in the Union;

(d) to exercise control over their corporate structure and decision-making process in a manner that does not restrain or restrict in any way their ability to perform and complete the obligations under this Regulation;

(e) not to contravene the security and defence interests of the Union and its Member States;

(f) with respect to cybersecurity and data security, not be subject to the jurisdiction of a third country requiring them to report information on software or hardware vulnerabilities to authorities of that third country prior to those vulnerabilities being known to have been exploited or not be subject to jurisdiction of a third country against which there is a public statement on behalf of the Union that threat actors operating out of the territory of that third country have carried out malicious cyber activities or campaigns;

(fa) to commit to carry out all relevant activities including telemetry, tracking and control related to the operation of the commercial MSS system in one or more Member States;

(g) to **have** one or more ITU filing**(s) related** to the 2 GHz band **from a Member State or to have binding contractual access supported by written confirmation from ~~a~~ the notifying administration to one or more ITU filing(s), or to provide evidence of the initiation of a filing procedure by a notifying administration or a commitment by a notifying administration to submit such a filing,** and to **commit to** take all necessary measures ensuring compliance of the proposed commercial MSS system with the ITU Radio Regulations.

2. For each ITU filing with a notifying administration in a third country, applicants shall provide evidence that the jurisdiction of that country provides for effective management and dispute resolution of harmful interference and implements tools for immediate accountability in case of unlawful use **or non-compliance with ITU Radio Regulations**.

3. Where an applicant is a joint venture **or a consortium of legal entities in accordance with Paragraph (1)(a), all of the following shall apply**:

(a) the requirements set out in paragraph 1, points (a), **(b) and (c) to (f),** shall apply to each member of the joint venture **or consortium**,

(b) **the requirements set out in paragraph 1, point (fa), shall apply at the level of the joint venture or consortium;**

(c) **the requirements set out in paragraph 1** point **(ca) and** (**g**) shall apply to at least one member of the joint venture **or of the consortium**.

4. Applicants shall include statements and evidence concerning the requested number of paired blocks of spectrum of 5 MHz or a part thereof in the 2 GHz MSS band and its effective use.

5. Applicants shall specify the amount they commit to pay as one-off financial contribution for the right of use of the 2 GHz MSS band per 5 MHz paired block or part of it, which shall be equal to or higher than the amount specified in the call for applications.

Article 10

Admissibility phase for commercial MSS systems of applicants from a Member State or a third country

1. The following admissibility requirements shall apply to the applicants for the use of the 2 GHz MSS band for commercial MSS systems, referred to in Article 4(1), point c:

   (a) to be established in the Union, or in the absence of such establishment, to designate a single point of contact in the Union to enable them to communicate directly, by electronic means, with Member States' authorities, and the Commission;

   (b) to exercise control over their corporate structure and decision-making process in a manner that does not restrain or restrict in any way their ability to perform and complete the obligations under this Regulation;

   (ba) **to commit to control and operate both a space and a ground segment for the provision of MSS;**

   (c) where applicants are subject to the control of a third-country or a third-country legal entity, **to** demonstrate that appropriate legal, technical and organisational measures are implemented to prevent access by a third-country or by a third-country entity to customer data;

   (d) not to contravene the security and defence policies of the Union and its Member States;

   (e) with respect to cybersecurity and data security, not **to** be subject to the jurisdiction of a third country requiring them to report information on software or hardware vulnerabilities to authorities of that third country prior to those vulnerabilities being known to have been exploited or not **to** be subject to jurisdiction of a third country against which there is a public statement on behalf of the Union that threat actors operating out of the territory of that third country have carried out malicious cyber activities or campaigns;

(f) to **have** one or more ITU filing**(s) related** to the 2 GHz band **from a Member State or to have binding contractual access supported by written confirmation from ~~a~~ the notifying administration to one or more ITU filing(s), or to provide evidence of the initiation of a filing procedure by a notifying administration or a commitment by a notifying administration to submit such a filing,** and to **commit to** take all necessary measures ensuring compliance of the proposed commercial MSS system with the ITU Radio Regulations;

(g) to have Telemetry, Tracking and Control facilities within the Union for those space infrastructure elements serving the Union.

2. For each ITU filing with a notifying administration in a third country, applicants shall provide evidence that the jurisdiction of that country provides for effective management and dispute resolution of harmful interference and implements tools for immediate accountability in case of unlawful use **or non-compliance with ITU Radio Regulations**.

3. Where an applicant is a joint venture, **all of the following shall apply**:

(a) the requirements set out in paragraph 1, points (a) to (e), shall apply to each member of the joint venture;

(b) the requirements set out in paragraph 1, point (g) shall apply at the level of the joint venture;

(c) **the requirements set out in paragraph 1,** point **(ba) and** (f) shall apply to at least one member of the joint venture.

4. Applicants shall include statements and evidence concerning the requested number of paired blocks of spectrum of 5 MHz or a part thereof in the 2 GHz MSS band and its effective use.

5. Applicants shall specify the amount they commit to pay as one-off financial contribution for the right of use of the 2 GHz MSS band per 5 MHz paired block or part of it, which shall be equal to or higher than the amount specified in the call for applications.

Article 11

First selection phase for commercial MSS systems

1. The following eligibility requirements shall apply to applicants for the right of use of the 2 GHz MSS band for commercial MSS systems referred to in Article 4(1), points (b) and (c):

   (a) to show satisfactory compliance with pre-requisites 1 to 4 as set out in the Annex;

   (b) to commit to provide services in **each** Member State to at least 95 % of the population and **to** at least **over** 90 % of the aggregate land area of each Member State no later than five years from the date of commencement of the continuous provision of MSS**, and to full coverage no later than ten years from that date**;

   (c) to commit to landing of traffic, which is generated **or received** by end-users located in the Union territory or routed to or from the Union, within the Union territory;

   (d) to demonstrate technical and financial capacity, and readiness for the development, launching and operation of the proposed commercial MSS system and provision of MSS by the date of commencement of the continuous provision of MSS;

   (e) to ensure a high level of security of the supply chain at least for the key components of the commercial MSS system as specified in the call for application, which guarantee the reliable provision of MSS;

   (f) to demonstrate security of operations*,* including by ensuring that, for all data generated and routed in the Union territory:

      (i) there is no possibility for a third party's **unauthorised access to or control over** the provision of the service;

      (ii) sensitive information relating to the provision of the service is effectively protected from unauthorised access;

      (iii) disaster recovery or data backup and restore operations do not involve the processing, transmission or storage of data in regions outside the Union;

(g) to demonstrate that the integrity, security and resilience of services are ensured by EU-accountable entities, **including in cases of jamming and spoofing of radio signals or limited availability or degradation of global navigation satellite systems (GNSS).**;

(h) to ensure the efficient use of spectrum;

(i) **to commit to support and promote the Union's research and industrial capabilities across the digital technology supply chain, and integration of Union technologies inter alia in terms of design, construction, launch and operation of the satellites, including the software, the ground segment, including gateway earth stations and ground control stations.**

2. The selection procedure shall be completed after the first selection phase, if the total amount of spectrum required by all eligible applicants does not exceed the amount of spectrum available for commercial MSS systems under Article 4(1), points (b) and (c). The Commission shall, by way of implementing acts, adopt a reasoned decision on selecting those applicants for the right of use of the 2 GHz MSS band for commercial MSS systems. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

The Commission may relaunch the selection procedure for any portion of the spectrum blocks that remains unassigned, with eligible demand under points (b) and (c) of Article 4(1) assessed separately for each such portion.

Article 12

Second selection phase for commercial MSS systems

1. The Commission shall rank eligible applicants for the rights of use of the 2 GHz MSS band for commercial MSS systems referred to in Article 4(1), points (b) and (c) based on the following selection criteria, which shall be further specified in the call for applications, including as regards their weighting:

   (a) population and geographic coverage within ten years from the date of commencement of the continuous provision of MSS, comprising the following sub-criteria:

      (i) the degree of population coverage in the Union, based on the population in residential and business areas, including high-latitude polar areas within the Union territory, which is within the service area of the system;

      (ii) the degree of geographical coverage, based on the aggregate land area and on the exclusive economic zones and territorial waters of all Member States, **including their overseas territories**, which is within the service areas of the system;

      (iii) the degree of geographical coverage outside the Union, based on the coverage area of the system within territories of non-EU countries and high seas;

      (iv) the degree of coverage in areas of high latitude, including outside Union territory;

   (b) the schedule of availability of services across all Member States within ten years from the date of commencement of the continuous provision of MSS;

   (c) **for applications under Article 4(1)(b),** the extent to which the commercial MSS system enables dual-use provision of secure governmental and commercial communications services;

(d) Union added value, in accordance with the following sub-criteria;

(i) the extent to which the commercial MSS system reinforces **the** Union's **research and** industrial capabilities across the digital technology supply chain, **taking into account geographic diversification and participation of undertakings from different Member States,** inter alia in terms of design, construction, launch and operation of the satellites, including the software**, and the ground segment, including gateway earth stations and ground control stations, and the location of such infrastructure within the Union**;

(ii) the level of integration of Union technologies, including the use of results stemming from Union funded research and innovation programmes;

(iii) the extent to which the public policy objectives **of** integrity, security and resilience of the services are achieved;

(e) consumer and competitive benefits, in accordance with the following sub-criteria:

(i) the schedule of the full-scale provision of services in the 2 GHz MSS band, and the related number of end-users and/or devices served with specific capabilities of the system in terms of quality of service;

(ii) the scope of services provided, including a deployment path towards Direct-to-Device services;

(f) promotion of competition, including through the provision of wholesale access under fair, reasonable and non-discriminatory terms and conditions, or of a wholesale-only network;

(g) avoiding threats to competition, in particular due to the possible creation or strengthening of a dominant position;

(h) efficient use of spectrum, in accordance with the following sub-criteria:

(i) the total amount of spectrum required;

(ii) capacity characteristics of **the** aggregated data stream, antenna systems, types of payloads, frequency reuse, orbit and satellites serving the Union;

(iii) the ability to share spectrum and/or to coexist efficiently with other users within the 2 GHz MSS band**, including through solutions enabling the efficient deployment of low-data-rate MSS-IoT**;

(i) the extent to which public policy objectives, not covered under points (a), (e) and (g) are achieved, in accordance with the following sub-criteria:

(i) provision of public interest services contributing to the protection of health and safety of citizens in general or of specific groups of citizens;

(ii) ensuring interoperability and regular upgrade of the satellite system;

(iii) overall environmental impact of the system;

(j) the amount of the one-off financial contribution per MHz for the requested right of use for the 2 GHz MSS band per paired block of 5 MHz or parts of it;

(k) the regulatory status of the ITU filing under Article 9(1)(g) and Article 10(1)(f) as applicable.

2. After the second selection phase, the Commission shall, by way of implementing acts, adopt a reasoned decision on the non-eligibility of applicants and on selecting the highest-ranking applicants per paired block of 5 MHz, taking into account the amount of spectrum available for commercial MSS systems under Article 4(1), points (b) and (c). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

3. The Commission may relaunch the selection procedure for any portion of the spectrum blocks that remains unassigned, with eligible demand under points (b) and (c) of Article 4(1) assessed separately for each such portion.

CHAPTER III – AUTHORISATION FRAMEWORK AND CONDITIONS FOR MSS SYSTEMS IN THE 2 GHz MSS BAND

Article 13

Union framework for the authorisation of MSS systems in the 2 GHz band

1. The use of radio spectrum in the 2 GHz MSS band by the selected applicants shall be subject to **an** authorisation, granted by **the national competent authority of each Member State on the basis of the selection decision adopted by** the Commission.

   Without prejudice to Article 1(4), the authorisation shall be subject to the conditions set out in Article 14(1) relating to the provision of the secure MSS/hybrid system or the conditions set out in Article 15(1) relating to the provision of commercial MSS systems, as applicable. Member States shall not impose any additional or separate conditions.

2. **The provision of networks and services in the 2 GHz MSS band shall be subject to a general authorisation at Union level.**

   The undertaking shall be subject to the conditions set out in Article 14(1a) or Article 15(1)(a) as applicable. Member States shall not impose any additional or separate conditions.

   The general authorisation shall confer the minimum rights deriv**ing** from **a** general authorisation **under** Article 15 of Directive (EU) 2018/1972. Articles 18, and 19 of Directive (EU) 2018/1972 shall apply mutatis mutandis to the amendments to, restrictions on and withdrawal of rights and obligations under the general authorisation. **Member States shall not impose any additional or separate authorisation requirements.**

3. Where the authorisation granted pursuant to paragraph 1 includes complementary ground and/or airborne components, the undertaking shall notify the national competent authority of the Member State where they are to be located, as well as the necessary information, including the location and technical characteristics of these components. The national competent authority may, without prejudice to any harmonised conditions adopted under the second subparagraph, set technical parameters for the use of these components and, where duly justified on grounds of harmful interference, international frequency coordination or security, and may oppose installation in a specific location.

The Commission may, after consulting the RSPG, establish by way of implementing acts adopted in accordance with Article 22(3), common conditions for the use of the complementary ground and/or airborne components.

4. **Member States shall cooperate with the Commission in the granting, transfer, leasing, amendment, withdrawal or any other procedures concerning the authorisation, in accordance with this Regulation.**

Member States shall grant, renew, amend or withdraw the rights of use in the 2 GHz band within 3 months from the adoption of the relevant implementing acts by the Commission. Where the national competent authority has not granted, renewed or amended the right of use within 3 months, it shall notify the Commission on the reasons for this delay. The Commission and other Member States shall cooperate with the Member State and the holder of the rights concerned with the view to resolving any remaining issue within a period of 3 months. This deadline shall not prevent the holder of the rights from using the spectrum to provide services in other Member States.

The Commission shall cooperate with Member States to ensure the monitoring of compliance of holders of the rights in accordance with Article 19.

The Commission shall act as a single point of contact for any request related to the granting, renewing or amending the rights of use, and coordinate with the Member States.

5. *Deleted*

6. The authorisation referred to in paragraphs 1 shall not relieve its holder from spectrum coordination and sharing obligations with respect to existing or future satellite networks or satellite communications services in the Union, stemming from the ITU Radio Regulations.

The authorised operator will have to comply with the ITU Radio Regulation and ensure, inter alia:

(i) application of the relevant Radio Regulations coordination and notification procedures including the ITU Master International Frequency Register (MIFR) entry respecting the ITU status and dates of protection and carried out in good faith;

(ii) compliance with relevant international coordination agreements;

(iii) that no harmful interference is created to other satellite networks or systems nor to any stations operated in accordance with the ITU Radio Regulations;

(iv) operation on a non-interference non-protection basis where the filing has not yet been notified and recorded in the MIFR or is operated under ITU Radio Regulation No 4.4;

7. Where an authorised undertaking providing a commercial MSS system is different from an incumbent, the authorised undertaking shall, upon request by an incumbent, negotiate with the incumbent a solution for the temporary continuation of services existing at the time of **entry into application** of this **Regulation** and described in the call for applications for a maximum of five years following the date of authorisation. Such a solution may include shared access to sufficient spectrum under the right of use of the selected applicant. Upon negotiation to be conducted in good faith by both parties, incumbents shall give access to their infrastructure or intellectual property according to FRAND terms and may submit their dispute to arbitration in compliance with Union law and with national law.

8. Any arbitration seat agreed between the parties for settling any dispute or claim arising out of or in connection with this Regulation shall lie within the Union. This shall be without prejudice to the right of the parties to submit any dispute arising under this Regulation to the Commission. In such cases, the Commission shall act as a dispute resolution authority and apply the procedure of Article 26 of Directive (EU) 2018/1972 mutatis mutandis.

Article 14

Conditions for use of the 2 GHz MSS band for the provision of the secure MSS/hybrid system

1. The holder of the authorisation for the **use of radio spectrum in the 2 GHz MSS band for the** secure MSS/hybrid system, granted under Article 13(1), shall be subject to the following conditions:

   (a) to use the spectrum primarily for the provision of a secure MSS or hybrid system;

   (b) to pay a one-off financial contribution as proposed in its application and annual fees for **the** use of **radio spectrum in the** 2 GHz MSS band;

   (c) *Deleted*

   (d) *Deleted*

   (e) *Deleted*

   (f) *Deleted*

   (g) to use the spectrum efficiently while meeting the requirements set out in Articles 7 and 8 as well as milestones 5 and 6 set out in the Annex within the timeframe specified in the application;

   (h) *Deleted*

   (i) to honour **all** commitments **relating to the use of radio spectrum in the 2 GHz MSS band** given in its application or during the comparative selection procedure, irrespective of its phase, for the whole duration of the right of use of spectrum;

(j) *Deleted*

(k) *Deleted*

(l) *Deleted*

(m) to cooperate with the competent authorities of the Member States in matters relating to international frequency coordination, the prevention and resolution of harmful interference and compliance with the ITU Radio Regulations;

(n) to give access to data <u>transmitted through gateway Earth stations, complementary ground components and any other ground infrastructure used for the routing of traffic,</u> by <u>administrative</u>, law enforcement and judicial authorities, including for lawful interception and data retention in accordance with national <u>and Union</u> legislation.

(1a) **The holder of the general authorisation for the provision of networks and services in the 2GHz MSS band for the secure MSS/hybrid system, <u>referred to in</u> Article 13(2) shall be subject to the following conditions:**

(b) to pay annual fees for its rights of use of the 2 GHz MSS band relating to the general authorisation;

(c) to provide secure governmental communications services on fair, reasonable and non-discriminatory terms and conditions in all Member States to:

(i) a Union or Member State public authority or a body entrusted with the exercise of public authority;

(ii) a natural or legal person acting on behalf and under the control of an entity referred to in point (i);

(d) where relevant, to use the available capacity, not used for the full-scale provision of secure governmental communications services, for the provision of commercial MSS services upon demand in accordance with paragraph 2 on the basis of a pre-defined prioritisation process**;**

(e) to accept to work **or act** on behalf of, or under the control of, the Union or a Member State's public authority or a body entrusted with exercising a public authority, in accordance with Union law;

(f) to ensure the integration of the secure MSS/hybrid system with the IRIS^2 system architecture, in accordance with **Regulation (EU) 2023/588 and the technical specifications set out in accordance with the second subparagraph;**

(h) to use the rights of use in a manner that is consistent with the Union's policies relying on spectrum, by not causing harmful interference**, including** to any satellite system authorised in the Union or financed under Union's programmes**, and in compliance with the ITU Radio Regulations;**

(i) to honour all commitments **relating to the provision of networks and services in the 2 GHz MSS band** given in its application or during the comparative selection procedure, irrespective of its phase, for the whole duration of the right of use of spectrum;

(j) where the applicant intends to provide services handling EU classified information (EUCI), to commit to comply with the obligations laid down in Commission Decision (EU, Euratom) 2015/444 as well as in Council Decision 2013/488/EU and to commit that non-classified sensitive information relating to the provision of secure governmental communication services is effectively protected from unauthorised access. The Commission may adopt an implementing act setting out the requirements for the handling of EUCI.

(ja) to exploit activities comprising the operation, maintenance, continuous improvement and protection of the satellite and terrestrial infrastructure, including replenishment and lifecycle management of critical technologies and components**;**

(k) to implement measures to ensure the protection of EU Classified Information (EUCI) under **Council Decision 2013/488/EU and Commission Decision (EU, Euratom) 2015/444;**

(l) to maintain the integrity, security and resilience of the satellite networks and satellite communications services;

(m) to comply with EU and national cybersecurity rules, including applicable ICT supply chain requirements.

(n) to maintain a permanent control over the transmission of all radio stations, using the 2GHz MSS band spectrum, and, where applicable, complementary ground and airborne components even where they are owned, installed or operated by third parties or not located within the Union;

(o) to comply with accessibility requirements for end-users with disabilities, including equivalent access to and choice of services in accordance with Article 111 of Directive (EU) 2018/1972, and the accessibility requirements set out in Directive (EU) 2019/882, where the services fall within the scope of that Directive;

For the purposes of compliance with point (f), the Commission may set out, by way of implementing acts adopted in accordance with the examination procedure referred to in Article 22(3), the technical specifications and the procedural rules necessary to ensure the efficient integration of the secure MSS/hybrid system with the IRIS² system architecture as deployed in accordance with Regulation (EU) 2023/588, taking into account the commitments made by the holder of the authorisation in its application pursuant to Articles 7 and 8.

1b. The holder of the rights shall provide the Commission with an annual report detailing the status of development of the system. The Commission shall share the report with the Communications Committee referred to in Article 22(1) and the Member States.

1c. For carrying out lawful interception tasks, the law enforcement authorities from Member States shall be able to access data transmitted through gateway Earth stations, complementary ground components and any other ground infrastructure used for the routing of traffic from the authorities of the Member States where such infrastructure is located, in accordance with Union law and national law applicable in the Member State where the infrastructure is located.

2. The holder of the right**s** of use **of spectrum** for the secure MSS/hybrid systems shall always prioritise the provision of secure governmental communications services over the provision of commercial MSS.

If the holder of the right of use for the secure MSS/hybrid system also obtains a right of use for a commercial MSS system in accordance with Article 4(4), that holder may use the spectrum under both rights in a **common or a** shared manner for both systems **or as a single system**, while preserving unconditional priority of provision of secure governmental communications services.

The provision of commercial MSS shall not be to the detriment of the quality and security of the secure governmental communications services.

3. **Where the Commission establishes that the spectrum is not efficiently used after a period of five years from the date on which the authorisations under Article 13(1) were granted,** the Commission may **adopt implementing acts in accordance with the examination procedure referred to in Article 22(3) for the** withdraw**al of** the right **referred to in Article 13(1) and 13(2)**. **The Member States shall take the measures necessary to give full effect in their territories to the implementing acts adopted by the Commission, in accordance with Article 13(4).**

Efficient use of spectrum in the 2 GHz MSS band shall be defined by the Commission in detailed arrangements for monitoring set out in accordance with Article 19(1).

Article 15

Conditions for use of the 2 GHz MSS band for the provision of commercial MSS systems

1. The holder of the authorisation **for the use of radio spectrum in the 2 GHz MSS band** for a commercial MSS system, granted under Article 13(1), shall be subject to the following conditions:

   (a) to use of the spectrum exclusively for the provision of an MSS system.

   (b) *Deleted*

   (c) to use the spectrum efficiently while meeting the requirements set out in Articles 10 and 11 as well as milestones 5 and 6 set out in the Annex within the timeframe specified in the application;

   (d) *Deleted*

   (da) to grant access to the 2 GHz MSS band under this right at the request of a competent authority at times of crises, on the basis of a pre-defined prioritisation process;

   (e) to honour any commitments **relating to the use of radio spectrum in the 2 GHz MSS band** given in their applications or during the comparative selection procedure, irrespective of its phase, for the whole duration of the right of use of spectrum;

   (f) to pay a one-off financial contribution as proposed in its application, and annual fees for its rights **for the** use of **radio spectrum in** the 2 GHz MSS band ;

   (g) *Deleted*

   (h) *Deleted*

   (i) *Deleted*

(j) to cooperate with the competent authorities of the Member States in matters relating to international frequency coordination, the prevention and resolution of harmful interference and compliance with the ITU Radio Regulations;

(k) to give access to data t<u>ransmitted through gateway Earth stations, complementary ground components and any other ground infrastructure used for the routing of traffic,</u> by <u>administrative</u>, law enforcement and judicial authorities, including for lawful interception and data retention ~~requisition~~ in accordance with national <u>and Union</u> legislation.

1a. The holder of the general authorisation for the provision of networks and services in the 2GHz MSS band for a commercial MSS system, <u>referred to in</u> Article 13(2), shall be subject to the following conditions:

(b) to ensure that the space-based component of an MSS system carries the predominant portion of the total data traffic **in each Member State**;

(d) to use the right in a manner that is consistent with the Union's policies relying on spectrum, especially by avoiding causing harmful interference to any satellite system authorised in the Union or financed under Union's programmes, and in compliance with ITU Radio Regulations,

(da) to grant access to the 2 GHz MSS band under this right at the request of a competent authority at times of crises, on the basis of a pre-defined prioritisation process;

(e) **to honour any commitments relating to the provision of services in the 2 GHz MSS band given in their applications or during the comparative selection procedure, irrespective of its phase, for the whole duration of the right of use of spectrum;**

(f) to pay annual fees for its rights of use of the 2 GHz MSS band relating to the general authorisation;

(g) to grant, upon request, **wholesale access under fair, reasonable, non-discriminatory** and transparent **terms and** conditions;

(h) **where the selected holder supplies more than 50% of the wholesale or retail mobile satellite services in a given Member State,** not to conclude **or maintain** exclusive agreements with providers of retail services **in that Member State;**

(l) to maintain the integrity, security and resilience of the satellite networks and satellite communications services;

(m) to comply with EU and national cybersecurity rules, including applicable ICT supply chain requirements.

(n) to maintain a permanent control over the transmission of all radio stations using the **2GHz MSS band** spectrum, **and, where applicable, complementary ground and airborne components** even where they are owned, installed or operated by third parties or not located within the Union;

(o) to comply with accessibility requirements for end-users with disabilities, including equivalent access to and choice of services in accordance with Article 111 of Directive (EU) 2018/1972, and the accessibility requirements set out in Directive (EU) 2019/882, where the services fall within the scope of that Directive;

1b. **The holder of the rights shall** provide the Commission with an annual report detailing the status of development of the system. The Commission shall share the report with the Communications Committee referred to in Article 22(1) and the Member States.

2. **W**here the Commission establishes that the spectrum is not efficiently used after a period of five years from **the** date on which the authorisation **under Article 13(1)** was granted~~.~~ **the Commission may adopt implementing acts in accordance with the examination procedure referred to in Article 22(3) for the withdrawal of the rights referred to in Article 13(1) and 13(2). The Member States shall take the measures necessary to give full effect in their territories to the implementing acts adopted by the Commission, in accordance with Article 13(4).**

Efficient use of paired blocks of 5 MHz in the 2 GHz MSS band shall be defined by the Commission in the detailed arrangements for monitoring set out in accordance with Article 19(1).

Article 16

Duration and renewal of rights of use

1. The duration of the right of use **for** the 2 GHz MSS band **referred to in Articles 13(1) and (2)** shall be 20 years. **The Commission shall take a decision on the commencement date of the right of use in accordance with the procedure referred to in Article 22(3).**

2. The selected undertakings, as well as any legal successor, shall fulfil the admissibility and eligibility criteria and the authorisation conditions throughout the entire duration of the right of use.

3. The right of use **for the** 2 GHz MSS band **referred to in Articles 13(1) and (2) may** be renewed once for a duration **not longer than the original duration** upon request by its holder. **The renewal should be requested at least seven years before the expiry of the right of use pursuant to paragraph 4. That request shall be sent to the Commission.**

4. The Commission **shall consider the request and, following consultation with Member States,** decide, **by way of implementing acts,** at least five years before the expiry of the right of use, **one of the following:**

(a) to renew the rights of use for the same duration and under the same conditions as under the original rights of use;

(b) to renew the rights of use for a shorter duration than or under different conditions than under the original rights of use; or,

(c) not to renew the right of use **and** let it expire. **In** order to ensure continuity of the service, the Commission shall **immediately** organise an open, transparent and non-discriminatory selection and authorisation procedure in order to select holders **of new rights.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

The Member States shall take the measures necessary as regards the authorisations granted under Article 13(1) to give full effect in their territories to the implementing acts adopted by the Commission, in accordance with Article 13(4).

(4a) The decision taken under paragraph 4, points (b) and (c) shall be substantiated based on one or several of the following reasons:

(a) the fulfilment of public policy objectives under Union law or national law, taking also into account the importance of existing investments;

(b) the implementation of a new technical implementing measure adopted in accordance with Article 4 of Decision No 676/2002/EC;

(c) the non-implementation of one of the conditions attached to the right of use concerned by its holder;

(d) the need to promote, or avoid any distortion of, competition;

(e) the need to render the use of radio spectrum more efficient in light of technological or market evolution;

(f) the significant evolution of the value of the spectrum.

5. The decision of renewal **under paragraph 4, point (a) or (b),** shall be accompanied by a review of the annual fees**. It shall include an obligation for the payment of a** one-off financial contribution for the use of the 2 GHz MSS band **which shall be calculated in accordance with a methodology set out in the delegated act referred to in Article 18(6)**.

Article 17

Transfer and lease of rights of use

1. **The r**ights of use for **2 GHz MSS band** **referred to in** **Articles 13(1) and (2) for** ~~of~~secure MSS/hybrid systems may not be transferred. **The rights of use for 2 GHz MSS band referred to in Articles 13(1) and (2) for secure MSS/hybrid systems may be leased partially or entirely only to undertakings which fulfil the admissibility and eligibility criteria and the authorisation conditions applicable within the scope of the lease and under the conditions set out in this Article.**

2. **The rights of use for the 2 GHz MSS band referred to in Articles 13(1) and (2) for the commercial MSS system may be transferred or leased partially or entirely only to undertakings which fulfil the admissibility and eligibility criteria and the authorisation conditions and under the conditions set out in this Article.**

2a. **No transfer or lease of the rights referred to in paragraphs 1 and 2 may be pursued or implemented before the Commission has adopted a decision on the approval of that transfer or lease in accordance with paragraph 4.**

3. The holder of rights **for the** use **of 2GHz MSS band** for MSS systems **referred to in Articles 13(1) and (2)** shall notify **the Commission of** its intention to transfer or lease any of the rights of use of blocks of the 2 GHz MSS band, **as applicable,** as well as the effective date and the conditions thereof**. The** Commission shall make that information public.

4. The Commission shall take a decision**, by way of implementing acts adopted in accordance with the examination procedure referred to in Article 22(3), regarding the approval of** the transfer or lease of rights of use for a commercial **MSS system or the approval of the lease of the rights of use for a secure MSS/hybrid system**. **The Commission shall refuse the approval** where:

   (a) there is a risk of distortion of competition;

   (b) there is a risk that the new user is unable to meet the admissibility and eligibility criteria or the authorisation conditions or the commitments given by the original holder of the right of use during the selection procedure;

   (c) there is a risk for the Union's sovereignty, resilience, security or defence;

   (d) there is a significant risk of disruption of continuity of service or of inefficient use of spectrum.

   (e) the spectrum cap of Article 4(3) is already attained.

   Before taking a decision pursuant to the first subparagraph, the Commission shall consult the Member States and give them sufficient time to submit substantiated observations as to whether the proposed transfer or lease is liable to adversely affect the authorisation conditions, national security, the continuity of the services provided and the effective use of the radio spectrum therein.

   The Member States shall take the necessary measures with regard to the authorisations granted under Article 13(1) to give full effect in their territories to the implementing acts adopted by the Commission, in accordance with Article 13(4).

5. From the date of the transfer or lease, the transferee or lessee shall be bound**, together with the original holder of the right of use in case of a lease,** by the original conditions attached to the right of use, and the commitments given by the original holder of the right of use during the selection procedure. The right of use shall not be used for the provision of a service ~~to end-users~~ which is different to the service originally intended in the application, unless authorised by the Commission.

6. Any agreement implying **a** change of control of a selected undertaking shall be notified to the Commission prior to taking legal effect and shall be subject to the approval of the Commission **in accordance with the procedure laid down in paragraph 4**.

Where, as a consequence of the change of control, any of the requirements or criteria of Articles 6 to 12, as applicable, are no longer fulfilled, the Commission shall notify the Member States without undue delay. The Member States and the Commission shall act to withdraw the rights referred to in Articles 13(1) and 13(2). The Member States shall take the necessary measures with regard to the authorisations granted under Article 13(1) to give full effect in their territories to the implementing acts adopted by the Commission, in accordance with Article 13(4).

Article 18

Financial contributions and fees for rights of use and authorisation in the 2 GHz MSS band

1. A holder of a right **granted under Article 13(1)** shall pay **a** one-off financial contribution reflecting the **economic** value of **those** right**s,** ensuring the efficient allocation **and use** of the spectrum **and covering the costs directly incurred by the Commission, or by a Union body supporting it, in conducting the selection procedure and establishing the Union authorisation framework**. The **amount** proposed **by the applicant shall** be specified in the application **subject to any minimum level determined pursuant to paragraphs 2 and 8**. Upon **a duly reasoned** request **by the applicant**, the Commission may allow that the payment of the one-off financial contribution is made in instalments.

2. The Commission shall**, by way of implementing acts adopted in accordance with the examination procedure referred to in Article 22(3),** determine the minimal level of the one-off financial contribution, **taking into account the cost methodology referred to in paragraph 7**.

3. The Commission shall **set** the one-off financial contributions by **means of** a decision, a**dopted by way of implementing acts in accordance with the examination procedure referred to in Article 22(3),** addressed to **each** selected applicant.

That decision shall **identify the amounts to be collected by the Member States in accordance with a distribution key established pursuant to paragraph 8 and those collected by the Commission. The amounts collected by the Commission shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509. The Member States and the Commission shall directly collect their respective shares, as identified in the decision.**

4. **Holders of rights referred to in Articles 13(1) and (2) shall pay ~~an~~ annual fees** reflecting the actual value of the right of use to contribute to the efficient use of the 2 GHz band and **covering at least all the estimated ~~objectively justified and proportionate administrative~~ costs incurred in the performance of the respective tasks of the ~~Commission and~~ Member States and the Commission, and any body supporting the Commission, allocated under this Regulation. The fees shall be set per spectrum block or parts thereof. The annual fees shall be determined and the costs shall be estimated pursuant to the methodology established in accordance with paragraph 7.**

5. The Member States and the Commission shall collect the annual fees corresponding to their respective tasks under this Regulation, as identified in the implementing acts referred to in paragraph 6.

6. The Commission shall adopt by means of an implementing act adopted in accordance with the examination procedure referred to in Article 22(3) a decision for setting the annual fee of each holder of rights under Article 13(1) and (2). The amount of the annual fee shall be broken down by amounts to be collected by Member States and by the Commission, in accordance with the methodology referred to in paragraph 8. The amounts collected by the Commission shall constitute external assigned revenue within the meaning of Article 21(5) of Regulation (EU, Euratom) 2024/2509.

7. *Deleted*

8. By [*12 month after the date of entry into force of this Regulation*] the Commission shall, by a delegated act, determine the methodology for setting the minimum levels of the one-off financial contribution and the amount of annual fees **levied by Member States and the Commission, and for establishing the one-off contribution in the case of renewal of rights in accordance with Article 16. The methodology shall comprise the methodology for the establishment of breakdowns per Member States and for the Commission and shall provide for the attribution to the Union as other revenue of any amount of annual fee residual after the coverage of costs.**

9. **By [*12 month after the date of entry into force of this Regulation*]** the Commission shall **adopt** implementing acts **in accordance with the examination procedure set out in Article 22(3) to establish the distribution key to distribute both the one-off contribution and the annualcollected fees to Member States in accordance with paragraphs 3 and 4.**

Article 19

Monitoring of compliance

1. **The Member States shall exercise their competences under this Regulation through the national regulatory and other competent authorities designated pursuant to Directive (EU) 2018/1972.**

2. **The Member States shall monitor the compliance of the holders of the rights with the obligations laid down in this Regulation, the applicable provisions of Union law and the applicable ITU Radio Regulations with respect to the rights granted under Article 13(1), including with respect to the use of complementary ground components pursuant to Article 13(3).**

3. **The Commission and Member States shall monitor the compliance of the holders of the rights with the obligations laid down in this Regulation, the applicable provisions of Union law and the applicable ITU Radio Regulations with respect to the rights referred to in Article 13(2).**

4. The Member States and the Commission shall coordinate their actions for the monitoring of the compliance of the holders of the rights pursuant to paragraphs 2 and 3. They shall exchange information without undue delay and cooperate in investigation, supervision and enforcement activities. The RSPG shall assist the Commission and the national competent authorities in an advisory capacity.

6. After consulting the RSPG, the Commission shall adopt implementing acts establishing detailed arrangements for the coordination between the Commission, the national competent authorities, the RSPG and any Union body supporting the Commission under this Regulation. Those arrangements may cover types of information to be collected and exchanged for monitoring purposes, common monitoring indicators, arrangements for coordinating inspections, technical measurements and investigations, procedures for referring alleged infringements between the Commission and national competent authorities, arrangements for coordinating corrective and interim measures and for the monitoring of compliance with decisions adopted under this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 22(3).

Article 19a

Coordinated enforcement

1. **Member States shall be allowed to adopt appropriate, effective, proportionate and dissuasive corrective measures where the holder of the rights infringes one of its obligations relating to the rights granted under Article 13(1).**

   The Commission shall be allowed to take appropriate, effective, proportionate and dissuasive corrective measures where the holder of the rights breaches one of its obligations relating to the rights referred to in Article 13(2), fails to comply with a corrective measure adopted pursuant to paragraph 7, supplies incorrect, incomplete or misleading information in the context of an investigation pursuant to paragraph 3, fails to supply information requested by the Commission within the prescribed period, fails to pay a one-off financial contribution or an amount included in the single consolidated invoice issued pursuant to Article 18.

2. **Where a Member State or the Commission has reason to believe that a holder does not comply with a condition falling within its competence, it shall examine the alleged infringement in accordance with this Regulation and, where relevant the applicable provisions of national law, Union law, or the ITU Radio Regulations. It shall inform that holder of the rights of its findings and, where applicable, the Commission. The Commission shall share the findings with other Member States.**

3. **Following the transmission by the Commission to the Member States of the information as referred to in paragraph 2, the other Member States shall investigate whether there is a breach of the relevant harmonised conditions within their jurisdiction and inform the Commission of their findings.**

4. **The holder of the rights shall have the opportunity to state its views to the Commission within a reasonable period, which shall, except in duly justified urgent cases, be not less than 20 working days. The Commission shall share that statement of views with the Member States.**

5. Within 5 months of the transmission by the Commission to the Member States of the information as referred to in paragraph 3, the other Member States shall notify a summary of their findings to the Commission, which shall inform all the other Member States and the holder of the rights. Within 8 months from the transmission by the Commission to the Member States of the information as referred to in paragraph 3, the Commission shall convene a meeting of the Communications Committee in order to examine the alleged breach and, if applicable, to discuss any appropriate measures aimed at ensuring compliance.

6. Member States shall refrain from adopting any final decision on the alleged breach before the meeting of the Communications Committee as referred to in paragraph 5.

7. After the meeting of the Communications Committee as referred to in paragraph 5, where the infringement occurs only in one Member State, that Member State shall take appropriate and proportionate measures, including financial penalties, aimed at ensuring compliance by the holder of the rights with its obligations under the Regulation, with the exception of withdrawal or suspension of the rights granted under Article 13(1).

Where the infringement occurs in two or more Member States or where the infringement falls within the competences of the Commission pursuant to paragraph 1, the Commission shall coordinate the imposition of appropriate and proportionate measures to be taken by Member States and the Commission. The RSPG shall assist the Commission in an advisory capacity.

The Commission shall take measures against the holder of the rights by way of implementing acts, adopted in accordance with the examination procedure referred to in Article 22(3).

Having regard to the nature, gravity, duration, territorial scope and consequences of the infringement, the measures taken by the Member States or the Commission may include:

(a) an order requiring the holder to bring the infringement to an end within a specified period;

(b) the temporary restriction or suspension, in the territory of that Member State, of the rights of use, including the use of specified spectrum blocks or complementary ground or airborne components;

(c) the temporary restriction of activities or services covered by the general authorisation

(d) the imposition of penalties in accordance with applicable national law; or

(e) the imposition of specific reporting, monitoring or compliance requirements;

(f) in case of repeated breaches or substantial non-compliance with the obligations set out under this Regulation, the suspension or withdrawal of the rights referred to in Article 13(1) and (2).

8. **Where urgent action is necessary to prevent or bring to an end harmful interference, or to address a serious and immediate threat to public security or the continuity of essential services, Member States may adopt appropriate interim measures in their territories and shall notify the Commission and the RSPG of such measures without undue delay.**

On duly justified imperative grounds of urgency relating to harmful interference, public security or a serious and immediate risk to the continuity of MSS services, the Commission shall adopt immediately applicable implementing acts in accordance with the examination procedure referred to in Article 22(3). Member States shall take the measures necessary to give full effect in their territories to the implementing acts adopted by the Commission pursuant this paragraph.

Member States may, in exceptional circumstances, submit a reasoned request that the Commission defer or adapt the application of a measure in their territories for a period not exceeding six months where its immediate application would be likely to cause a serious disruption to connectivity, public security or the continuity of essential services.

The Commission may, after consulting the other Member States where appropriate, grant, reject or attach conditions to the request. Any extension shall be granted only where the exceptional circumstances persist.

9. **The Commission may, by decision, impose fines or periodic penalty payments for actions falling within its competence pursuant to paragraph 1, having regard to the nature, gravity, duration and territorial scope of the infringement, or of any action taken to remedy it, any previous infringements and the holder of the rights' capacity to pay.**

Fines and periodic penalty payments shall be effective, proportionate and dissuasive. A fine shall not exceed 5 % of the undertaking's total worldwide turnover in the preceding financial year. Fines and periodic penalty payments shall be allocated to Member States in accordance with the distribution key established in Article 18.

Before adopting a decision under this paragraph, the Commission shall give the undertaking concerned the opportunity to state its views.

10. Where the Commission withdraws the rights granted under Article 13(7)(f) pursuant to paragraph 4, it shall coordinate with the Member States concerning the consequences for the corresponding withdrawal of rights of use and authorisations granted pursuant to Article 13(1) and (3).

Where necessary to ensure continuity of service, the Commission and the Member States may allow another selected applicant to use the spectrum concerned on a temporary basis, subject to appropriate conditions and without conferring an entitlement to permanent reassignment.

Where the relevant spectrum is to be reassigned, the Commission shall launch a new selection procedure in accordance with Article 4.

CHAPTER IV - FINAL PROVISIONS

Article 20

Transitory provisions

1. The duration of the existing rights of use granted **to the incumbents, Viasat and Echostar,** in accordance with Decision 2009/449/EC are extended, upon request, for a period of **three** years, under the authorisation conditions applicable at the date of entry into force of this Regulation. **During the extension period, the rights of use shall be limited to the continued provision of the kind of wholesale or retail services already having been supplied for a period of at least 5 years prior to the entry into force of the Regulation. T**he rights shall not be transferred, nor leased or sub-leased **during this extension period**. For the purpose of coordinated application of the rules on monitoring and enforcement, Commission Decision 2011/667 of 10 October 2011[21] continues to apply.

2. During the extension period, the Commission **shall, upon request, take** a decision to impose sharing conditions for testing and experimental use within the band, **ensuring non-discriminatory access, including for experimentation under Union programmes such as IRIS²** in accordance with the **examination** procedure referred to in Article 22(**3**). **Experimental rights of use granted by national competent authorities before the entry into force of this Regulation shall remain valid until the adoption of that decision, provided that they do not cause harmful interference to the existing rights holders.**

[21] Commission Decision of 10 October 2011 on modalities for coordinated application of the rules on enforcement with regard to mobile satellite services (MSS) pursuant to Article 9(3) of Decision No 626/2008/EC of the European Parliament and of the Council, OJ L 265, 11.10.2011, pp. 25, ELI: http://data.europa.eu/eli/dec/2011/667/oj

Article 21

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(7) and Article 18(6) shall be conferred on the Commission for **a period of five years extendable** from [*date of entry into force of this Regulation].* **The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

3. The delegation of power referred to in Article 5(7) and Article 18(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5(7) and Article 18(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of **the** notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 22

Committee procedure

1. The Commission shall be assisted by the committee ('Communications Committee') set up by Article 118 of Directive (EU) 2018/1972. This is within the meaning of Regulation (EU) No 182/2011.

1a. Where reference is made to this paragraph in Annex II, the Commission shall be assisted by a Security Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 23

Repeal

Title II of Decision No 626/2008/EC is repealed from [the day of **entry into force**].

Article 2 of Decision No 626/2008/EC and all acts adopted on that basis shall continue to apply only for the purposes to that Decision and all acts adopted on that basis until the repeal of the Decision.

Decision No 626/2008/EC is repealed three years after [the day of the entry into force].

Article 24

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament *For the Council*
The President The President

ANNEX I

MILESTONES FOR AN MSS SYSTEM

1. Compliance with international regulations by the satellite operator providing the capacity in the 2GHz band

The applicant shall provide clear evidence on ensuring compliance of the mobile satellite system with the ITU Radio Regulations from the date of commencement of the continuous provision of MSS, including:

(a) applying the relevant ITU Radio Regulations' coordination and notification procedures, including the entry in the ITU Master International Frequency Register (MIFR), respecting the ITU status and dates of protection and carried out in good faith;

(b) completing all relevant international coordination agreements;

(c) avoiding harmful interference to other satellite networks/systems and to any stations operated in accordance with the ITU Radio Regulations;

(d) operating on a non-interference non-protection basis when the filing has not yet been notified and recorded in the MIFR or under the ITU Radio Regulations' Article No.4.4. **or Article No. 11.41.**

The applicant shall provide clear evidence that the administration responsible for the ITU filing of the mobile satellite system, subject to the application, has submitted the necessary ITU Radio Regulations' Appendix 4 information.

2. Satellite manufacturing

The applicant shall provide clear evidence of a binding agreement for the manufacture of the satellites of the mobile satellite system **to be used** within the territories of the Member States. The document shall identify the construction milestones leading to the completion of manufacture of those satellites. The document shall be signed by the applicant and**, where relevant,** the **sub-contracted** satellite manufacturing company.

3. Satellite launch agreement

The applicant shall provide clear evidence of a binding agreement to launch the minimum number of satellites required for the continuous provision of MSS within the territories of the Member States. The document shall identify the launch dates and launch services and the contractual terms and conditions concerning indemnity. The document shall be signed by the **applicant and, where relevant, by any space or other segment operator contracted by the applicant** and the satellite launching company.

4. Gateway Earth Stations

The applicant shall provide clear evidence of a binding agreement for the construction and installation of **any necessary** Gateway Earth Stations that would be used for the continuous provision of MSS i**n areas which the applicant has committed to cover, including areas outside Union territory. Traffic originating or terminating in the Union shall transit only through Gateway Earth Stations installed in the Union.**

5. Launch of satellites

The applicant shall provide clear evidence of the successful launch and in-orbit deployment of the number of satellites required for the continuous provision of MSS **in areas which the applicant has committed to cover, including areas outside Union territory**.

6. Provision of MSS within the territories of the Member States and coverage of areas included in the application

The applicant shall provide clear evidence that it is effectively providing full-scale continuous MSS within the territories of the Member States, including the territorial waters of all Member States, using at least the number of satellites it has previously identified under milestone 3 to cover the geographical area the applicant has committed to in its application from the date of the commencement of the continuous provision of MSS. **The applicant shall provide clear evidence that it has reached the coverage of all areas it committed to in its application.**

ANNEX II

PROTECTION OF EUCI

SECTION I

General principles

1. EUCI handled, stored or transmitted within the dedicated governmental network layer as a subset of the secure governmental communication services shall be protected in accordance with the security rules set out in the Commission Decision (EU, Euratom) 2015/444.
2. Protection of EUCI shall cover, but not be limited to, measures in the areas of personnel security, physical security, management of EUCI and security in communication and information systems.
3. The Communications Committee shall be the security authority in the meaning of Commission Decision (EU, Euratom) 2015/444 for the dedicated governmental network layer

SECTION II

Security accreditation

1. Where a secure MSS/hybrid system owned or controlled by the EU and operating on the dedicated governmental network layer, as a communication and information system (CIS), is intended to provide services handling, storing or transmitting EUCI, it shall be security accredited by a security accreditation authority for the protection of EUCI at the required security classification level in accordance with Commission Decision (EU, Euratom) 2015/444.

1a. Where a secure MSS/hybrid system owned or controlled by a Member State and operating on dedicated governmental network layer, as a CIS, is intended to provide services handling, storing or transmitting EUCI, its interface with a secure MSS/hybrid system owned or controlled by the EU shall be security accredited by a security accreditation authority for the protection of EUCI at the required security classification level in accordance with Commission Decision (EU, Euratom) 2015/444.

2. The Security Committee referred to in Article 22(1a) shall be the security accreditation authority in the meaning of Commission Decision (EU, Euratom) 2015/444 for the CIS referred to in paragraphs 1 and 2.
3. The Communications Committee shall be the risk owner for the CIS referred to in paragraphs 1 and 2.
4. An applicant shall deliver a statement in which they will commit to meet the requirements for the protection of EUCI, if applicable, including providing a statement of compliance before EUCI will be handled, stored or transmitted. The statement of compliance shall be accepted by the security accreditation authority referred to in paragraph 2.

SECTION III

Security requirements

1. Applicants and holders of the authorisation for the secure MSS/hybrid system comprising a dedicated governmental network layer that is intended to handle, store or transmit EUCI shall protect EUCI in accordance with Commission Decision (EU, Euratom) 2015/444.

2. Where EUCI is to be handled, stored or transmitted, the call for applications referred to in Article 5(2) of this Regulation shall contain the following security requirements for protecting EUCI up to and including SECRET UE/EU SECRET:

   a) to obtain a facility security clearance (FSC) from the NSA of the Member State where the holder is registered if they will require access to EUCI classified at level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET within their facilities;
   b) to obtain a personnel security clearance (PSC) from the Member State where the holder is registered for their staff who will have access to EUCI at level CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET;
   c) to establish relevant Information Assurance functions in accordance with the Commission Decision (EU, Euratom) 2015/444;
   d) to apply Tempest measures where applicable;

e) to encrypt EUCI during transmission using EU approved cryptographic products in accordance with the Council Decision 2013/488/EU;

f) to put in place access control that only authorised governmental users will have access to the system;

g) ensure security monitoring during operation of the system.

3. The Commission may adopt security instructions establishing procedures and processes specific for the handling, storing and transmitting EUCI within the dedicated governmental network layer by means of implementing act. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 22(3) and Article 22(1a).

4. Where applicable, the Commission shall be the TEMPEST Authority.